Public Law 101-1
101st Congress

Joint Resolution

Disapproving the increases in executive, legislative, and judicial salaries recommended by the President under section 225 of the Federal Salary Act of 1967.

Feb. 7, 1989
[H.J. Res. 129]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress disapproves in their entirety the recommendations transmitted to the Congress by the President on January 9, 1989, under section 225(h) of the Federal Salary Act of 1967.

2 USC 358 note.

Approved February 7, 1989.

LEGISLATIVE HISTORY—H.J. Res. 129 (S.J. Res. 7):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 2, S.J. Res. 7 considered and passed Senate.
Feb. 7, H.J. Res. 129 considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Feb. 7, Presidential statement.

○

Public Law 101-2
101st Congress

Joint Resolution

Mar. 15, 1989
[H.J. Res. 22]

To designate the week beginning March 6, 1989, as "Federal Employees Recognition Week".

Whereas Federal employees serve the people of the United States by enabling the Federal Government to carry out its duties in an efficient manner;

Whereas more than 3,000,000 individuals are employed by the Federal Government;

Whereas many valuable services performed by Federal employees are often inadequately recognized by Federal officials and by the people of the United States; and

Whereas Federal employees should be commemorated for the contributions that they make to the efficient operation of the Federal Government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 6, 1989, is designated "Federal Employees Recognition Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved March 15, 1989.

LEGISLATIVE HISTORY—H.J. Res. 22:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 1, considered and passed House.
Mar. 2, considered and passed Senate.

○

29-139 O - 89 (2)

Public Law 101-3
101st Congress

Joint Resolution

To designate March 25, 1989, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

Mar. 21, 1989
[S.J. Res. 64]

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;
Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;
Whereas March 25, 1989, marks the one hundred and sixty-eighth anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;
Whereas these and other ideals have forged a close bond between our two nations and their peoples; and
Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1989, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

Approved March 21, 1989.

LEGISLATIVE HISTORY—S.J. Res. 64:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 2, considered and passed Senate.
Mar. 14, considered and passed House.

○

Public Law 101-4
101st Congress

Joint Resolution

Mar. 23, 1989
[H.J. Res. 117]

To proclaim March 20, 1989, as "National Agriculture Day".

Whereas agriculture is the Nation's largest and most basic industry, and its associated production, processing, and marketing segments together provide more jobs than any other single industry;

Whereas agriculture serves all Americans by providing food, fiber, and other basic necessities of life;

Whereas the performance of the agricultural economy is vital to maintaining the strength of our national economy, the standard of living of our citizens, and our presence in world trade markets;

Whereas it is important that all Americans should understand the role that agriculture plays in their lives and well-being whether they live in urban or rural areas; and

Whereas since 1973, the first day of spring has been celebrated as National Agriculture Day by farmers and ranchers, commodity and farm organizations, cooperatives and agribusiness organizations, nonprofit and community organizations, and Federal, State, and local governments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 20, 1989, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities during the week of March 19 through March 25, 1989.

Approved March 23, 1989.

LEGISLATIVE HISTORY—H.J. Res. 117:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, considered and passed House.
Mar. 16, considered and passed Senate.

○

Public Law 101-5
101st Congress

Joint Resolution

To designate March 16, 1989, as "Freedom of Information Day".

Mar. 23, 1989
[H.J. Res. 167]

Whereas a fundamental principle of our Government is that a well-informed citizenry can reach the important decisions that determine the present and future of the Nation;

Whereas the freedoms we cherish as Americans are fostered by free access to information;

Whereas many Americans, because they have never known any other way of life, take for granted the guarantee of free access to information that derives from the First Amendment to the Constitution of the United States;

Whereas the guarantee of free access to information should be emphasized and celebrated annually; and

Whereas March 16 is the anniversary of the birth of James Madison, one of the Founding Fathers, who recognized and supported the need to guarantee individual rights through the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 16, 1989, is designated as "Freedom of Information Day", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved March 23, 1989.

LEGISLATIVE HISTORY—H.J. Res. 167:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, considered and passed House.
Mar. 16, considered and passed Senate.

○

Public Law 101-6
101st Congress

Joint Resolution

Mar. 24, 1989
[H.J. Res. 148]

Designating the month of March in both 1989 and 1990 as "Women's History Month".

Whereas American women of every race, class, and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside of the home;

Whereas American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force of the Nation;

Whereas American women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our Nation;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement;

Whereas American women have been leaders not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, especially the peace movement, which create a more fair and just society for all; and

Whereas despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the literature, teaching, and study of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1989 and March 1990 are both designated as "Women's History Month". The President is authorized and requested to issue a proclamation for each of those months calling upon the people of the United States to observe those months with appropriate programs, ceremonies, and activities.

Approved March 24, 1989.

LEGISLATIVE HISTORY—H.J. Res. 148:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 7, considered and passed House.
Mar. 15, considered and passed Senate.

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Public Law 101-7
101st Congress

An Act

To provide for more balance in the stocks of dairy products purchased by the Commodity Credit Corporation.

Mar. 29, 1989
[S. 553]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.

7 USC 1446 note.

(a) MODIFICATION OF PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.—Notwithstanding any other provision of law, with respect to purchases of butter and non-fat dry milk made under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)), the Secretary of Agriculture, in carrying out the temporary $0.50 per hundredweight increase in the rate of price support for milk provided for in section 102(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1446 note), shall provide that at least 75 percent of such price support increase shall be reflected in the purchase price for non-fat dry milk and that not more than 25 percent of such price support increase shall be reflected in the purchase price for butter.

(b) DECREASE IN PURCHASE PRICE FOR NON-FAT DRY MILK AND BUTTER.—Notwithstanding any other provision of law, with respect to purchases of butter and non-fat dry milk made under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)), the Secretary of Agriculture, in implementing the $0.50 per hundredweight decrease in the rate of price support for milk scheduled to occur on July 1, 1989 (as provided in section 102(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1446 note)), shall provide that not more than 25 percent of such price support decrease shall be reflected in the purchase price for non-fat dry milk and that at least 75 percent of such price support decrease shall be reflected in the purchase price for butter: *Provided, however,* That the Secretary of Agriculture may allocate such decrease in the rate of price support between the purchase prices for non-fat dry milk and butter in such other manner as the Secretary determines will result in the lowest level of expenditures by the Commodity Credit Corporation and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of such determination.

Approved March 29, 1989.

LEGISLATIVE HISTORY—S. 553:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 9, considered and passed Senate.
Mar. 15, considered and passed House, amended.
Mar. 17, Senate concurred in House amendment.

○

Public Law 101-8
101st Congress

Joint Resolution

Mar. 29, 1989
[S.J. Res. 87]

To commend the Governments of Israel and Egypt on the occasion of the tenth anniversary of the Treaty of Peace between Israel and Egypt.

Whereas in Washington, District of Columbia, on March 26, 1979, the Governments of Israel and Egypt, with the support and encouragement of the United States, signed a treaty of peace formally ending their state of war;

Whereas this treaty, the only peace agreement between Israel and an Arab nation, remains a crucial element in fostering peace in the Middle East;

Whereas under terms of this historic document Israel and Egypt agreed to end the state of war between them, Israel fully withdrew its military forces and civilian settlements from the Sinai Peninsula, and Israel and Egypt established formal diplomatic relations, including the exchange of ambassadors;

Whereas the establishment of peace between Israel and Egypt demonstrates that direct bilateral negotiations are the most effective way to resolve the Arab-Israeli conflict and can lead to lasting and mutually beneficial results;

Whereas the other parties to the conflict have been unwilling to enter into direct bilateral negotiations but continue to maintain a state of war against Israel;

Whereas the continuation of the conflict has exacted a high cost in human lives and human suffering from both Israelis and Arabs; and

Whereas the treaty has allowed the peoples of Israel and Egypt to begin to build a network of cultural, economic, personal, and political contacts among themselves: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Government—

(1) commends Israel and Egypt for their historic act of courage and statesmanship in signing the Treaty of Peace of March 26, 1979;

(2) calls upon the President to mark this historic anniversary with appropriate public activities;

(3) welcomes the willingness of Israel and Egypt to continue to observe the international obligations they have accepted which have contributed to the peace and stability of the region; and

(4) calls upon other Arab nations and the Palestinians to follow the example of Israel and Egypt, to join actively in the peace process, to renounce the state of war and acts of violence, and to enter into face-to-face negotiations to achieve a just and lasting peace.

Approved March 29, 1989.

LEGISLATIVE HISTORY—S.J. Res. 87 (H.J. Res. 187):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 16, considered and passed Senate.
Mar. 23, considered and passed House.

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Public Law 101-9
101st Congress

An Act

Mar. 31, 1989
[H.R. 1373]

To authorize the Agency for International Development to pay the expenses of an election observer mission for the 1989 presidential elections in Panama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPENSES OF OBSERVER MISSION FOR 1989 ELECTIONS IN PANAMA.

The Administrator of the Agency for International Development is authorized to use any funds described in section 2 to pay the expenses of an election observer mission for the 1989 presidential elections in Panama.

SEC. 2. DESCRIPTION OF FUNDS WHICH MAY BE USED.

In carrying out section 1, the Administrator of the Agency for International Development may use any unearmarked funds that are available to carry out chapter 1 of part I (relating to development assistance) or chapter 4 of part II (relating to the economic support fund) of the Foreign Assistance Act of 1961.

SEC. 3. RESTRICTIONS ON ASSISTANCE FOR PANAMA NOT APPLICABLE.

Funds may be used in accordance with this Act without regard to any provision of law which would otherwise prohibit the use of foreign assistance funds with respect to Panama.

Approved March 31, 1989.

LEGISLATIVE HISTORY—H.R. 1373:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 14, considered and passed House.
Mar. 17, considered and passed Senate.

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29-139 0 - 89 (9)

Public Law 101-10
101st Congress

Joint Resolution

To designate the week beginning April 2, 1989, as "National Child Care Awareness Week".

Apr. 2, 1989
[S.J. Res. 50]

Whereas the status and composition of the family in the United States is constantly changing;

Whereas today 57 percent of all women with children younger than six years of age work outside the home;

Whereas by 1995, two-thirds of all pre-school children and more than three-quarters of all school-age children will have mothers in the work force;

Whereas the increasing participation of women in the work force will continue to increase the demand for child care during the working hours;

Whereas adequate child care is an increasingly important element in enhancing the productivity of the work force and enabling parents to receive additional job training;

Whereas child care experts have long known that a child's first five years are the ideal base to support lifelong learning, and child care providers in both homes and child care centers can provide vital assistance to parents in these critical years;

Whereas the collaboration of public and private efforts is essential to developing accessible, high quality child care;

Whereas the National Association for the Education of Young Children is sponsoring a week of the young child, and it is appropriate for Congress to designate the same week as a period devoted to increasing public awareness of child care issues;

Whereas communities across the United States are planning special activities to honor child care providers to illustrate the importance of high quality child care during that week; and

Whereas all children deserve high quality child care, and all parents have a profound obligation to provide a safe wholesome environment for their children at all times: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 2, 1989, is designated as "National Child Care Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved April 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 50:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Mar. 23, considered and passed House.

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Public Law 101-11
101st Congress

An Act

To make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act.

Apr. 7, 1989
[H.R. 829]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wildfire Suppression Assistance Act.
42 USC 1856m note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wildfire Suppression Assistance Act".

SEC. 2. PERMANENT AUTHORITY.

The Temporary Emergency Wildfire Suppression Act (Public Law 100-428) is amended by repealing section 5.

42 USC 1856p.

Approved April 7, 1989.

LEGISLATIVE HISTORY—H.R. 829:

HOUSE REPORTS: No. 101-5, Pt. 1 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 135 (1989):
    Mar. 14, considered and passed House.
    Mar. 17, considered and passed Senate.

O

PUBLIC LAW 101–12—APR. 10, 1989

WHISTLEBLOWER PROTECTION ACT OF 1989

29-139 O - 89 - 1 (12)

Public Law 101-12
101st Congress

An Act

Apr. 10, 1989
[S. 20]

To amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Whistleblower Protection Act of 1989.
5 USC 1201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Whistleblower Protection Act of 1989".

5 USC 1201 note.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Federal employees who make disclosures described in section 2302(b)(8) of title 5, United States Code, serve the public interest by assisting in the elimination of fraud, waste, abuse, and unnecessary Government expenditures;

(2) protecting employees who disclose Government illegality, waste, and corruption is a major step toward a more effective civil service; and

(3) in passing the Civil Service Reform Act of 1978, Congress established the Office of Special Counsel to protect whistleblowers (those individuals who make disclosures described in such section 2302(b)(8)) from reprisal.

(b) PURPOSE.—The purpose of this Act is to strengthen and improve protection for the rights of Federal employees, to prevent reprisals, and to help eliminate wrongdoing within the Government by—

(1) mandating that employees should not suffer adverse consequences as a result of prohibited personnel practices; and

(2) establishing—

(A) that the primary role of the Office of Special Counsel is to protect employees, especially whistleblowers, from prohibited personnel practices;

(B) that the Office of Special Counsel shall act in the interests of employees who seek assistance from the Office of Special Counsel; and

(C) that while disciplining those who commit prohibited personnel practices may be used as a means by which to help accomplish that goal, the protection of individuals who are the subject of prohibited personnel practices remains the paramount consideration.

SEC. 3. MERIT SYSTEMS PROTECTION BOARD; OFFICE OF SPECIAL COUNSEL; INDIVIDUAL RIGHT OF ACTION.

(a) MERIT SYSTEMS PROTECTION BOARD.—Chapter 12 of title 5, United States Code is amended—

(1) in section 1201 in the second sentence by striking out "Chairman and";

(2) in the heading for section 1202 by striking out the comma and inserting in lieu thereof a semicolon;

(3) in section 1202(b)—

(A) in the first sentence by striking out "his" and inserting in lieu thereof "the member's"; and

(B) in the second sentence by striking out "of this title";

(4) in section 1203(a) in the first sentence by striking out the comma after "time";

(5) in section 1203(c) by striking out "the Chairman and Vice Chairman" and inserting in lieu thereof "the Chairman and the Vice Chairman";

(6) by redesignating section 1204 as section 1211(b) and inserting such subsection after section 1211(a) (as added in paragraph (11) of this subsection);

(7) by redesignating section 1205 as section 1204, and amending such redesignated section—

(A) by striking out "and Special Counsel", "the Special Counsel," and "of this section" each place such terms appear;

(B) by striking out "subpena" and "subpenaed" each place such terms appear and inserting in lieu thereof "subpoena" and "subpoenaed", respectively;

(C) in subsection (a)(4) by striking out "(e)" and inserting in lieu thereof "(f)";

(D) by amending subsection (b)(2) to read as follows:

"(2) Any member of the Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may, with respect to any individual—

"(A) issue subpoenas requiring the attendance and presentation of testimony of any such individual, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; and

"(B) order the taking of depositions from, and responses to written interrogatories by, any such individual.";

(E) in subsection (c) in the first sentence—

(i) by striking out "(b)(2) of this section," and inserting in lieu thereof "(b)(2)(A) or section 1214(b), upon application by the Board,"; and

(ii) by striking out "judicial";

(F) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively, and inserting after subsection (c) the following new subsection:

"(d) A subpoena referred to in subsection (b)(2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in such manner as the Federal Rules of Civil Procedure prescribe for service of a subpoena in a foreign country. To the extent that the courts of the United States can assert jurisdiction over such individual, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance under this subsection by such individual that such court would have if such individual were personally within the jurisdiction of such court.";

District of Columbia.

(G) in subsection (e) (as redesignated by subparagraph (F) of this paragraph)—

(i) in paragraph (1)—

(I) by redesignating such paragraph as subparagraph (A) of paragraph (1); and

(II) by inserting at the end thereof the following new subparagraph:

"(B)(i) The Merit Systems Protection Board may, during an investigation by the Office of Special Counsel or during the pendency of any proceeding before the Board, issue any order which may be necessary to protect a witness or other individual from harassment, except that an agency (other than the Office of Special Counsel) may not request any such order with regard to an investigation by the Office of Special Counsel from the Board during such investigation.

"(ii) An order issued under this subparagraph may be enforced in the same manner as provided for under paragraph (2) with respect to any order under subsection (a)(2).";

(ii) in paragraph (2)—

(I) by redesignating such paragraph as subparagraph (A) of paragraph (2) and striking out "of this section" in the first sentence therein; and

(II) by inserting at the end thereof the following new subparagraph (B):

Regulations.

"(B) The Board shall prescribe regulations under which any employee who is aggrieved by the failure of any other employee to comply with an order of the Board may petition the Board to exercise its authority under subparagraph (A)."; and

(iii) in paragraph (3) by inserting "of Personnel Management" after "Office";

(H) in subsection (f) (as redesignated by subparagraph (F) of this paragraph)—

(i) in paragraph (1) in the first sentence by inserting "of the Office of Personnel Management" after "Director", and by striking out "of this title";

(ii) in paragraph (2)—

(I) in the first sentence by inserting a comma after "subsection";

(II) in subparagraph (A) by striking out "of this title"; and

(III) in subparagraph (B) by striking out "of this title"; and

(iii) in paragraph (3)—

(I) in subparagraph (A) by striking out "(A)";

(II) by striking out subparagraph (B); and

(III) by redesignating subparagraph (C) and clauses (i) and (ii) therein as paragraph (4) and subparagraphs (A) and (B), respectively; and

(I) in subsection (j) (as redesignated by subparagraph (F) of this paragraph) in the second sentence by striking out "of this title" after "chapter 33";

(8) by striking out sections 1206 through 1208;

(9) by redesignating section 1209(a) as section 1205, and inserting before such section the following section heading:

"§ 1205. Transmittal of information to Congress";

(10) by redesignating section 1209(b) as section 1206, and inserting before such section the following section heading:

"§ 1206. Annual report";

(11) by inserting after section 1206 (as redesignated in paragraph (10) of this subsection) the following:

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"§ 1211. Establishment

"(a) There is established the Office of Special Counsel, which shall be headed by the Special Counsel. The Office shall have an official seal which shall be judicially noticed. The Office shall have its principal office in the District of Columbia and shall have field offices in other appropriate locations.";

District of Columbia.

(12) by amending section 1211(b) (as redesignated and inserted by paragraph (6) of this subsection)—

(A) in the first sentence by striking out "of the Merit Systems Protection Board" and "from attorneys";

(B) by striking the second sentence and inserting in lieu thereof "The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position. A Special Counsel appointed to fill a vacancy occurring before the end of a term of office of the Special Counsel's predecessor serves for the remainder of the term."; and

(C) by adding at the end thereof "The Special Counsel may not hold another office or position in the Government of the United States, except as otherwise provided by law or at the direction of the President."; and

(13) inserting after section 1211 the following:

"§ 1212. Powers and functions of the Office of Special Counsel

"(a) The Office of Special Counsel shall—

"(1) in accordance with section 1214(a) and other applicable provisions of this subchapter, protect employees, former employees, and applicants for employment from prohibited personnel practices;

"(2) receive and investigate allegations of prohibited personnel practices, and, where appropriate—

"(A) bring petitions for stays, and petitions for corrective action, under section 1214; and

"(B) file a complaint or make recommendations for disciplinary action under section 1215;

"(3) receive, review, and, where appropriate, forward to the Attorney General or an agency head under section 1213, disclosures of violations of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

"(4) review rules and regulations issued by the Director of the Office of Personnel Management in carrying out functions under section 1103 and, where the Special Counsel finds that any such rule or regulation would, on its face or as implemented, require the commission of a prohibited personnel practice, file a written complaint with the Board; and

"(5) investigate and, where appropriate, bring actions concerning allegations of violations of other laws within the jurisdiction of the Office of Special Counsel (as referred to in section 1216).

"(b)(1) The Special Counsel and any employee of the Office of Special Counsel designated by the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Special Counsel may—

"(A) issue subpoenas; and

"(B) order the taking of depositions and order responses to written interrogatories;

in the same manner as provided under section 1204.

"(3)(A) In the case of contumacy or failure to obey a subpoena issued under paragraph (2)(A), the Special Counsel may apply to the Merit Systems Protection Board to enforce the subpoena in court pursuant to section 1204(c).

"(B) A subpoena under paragraph (2)(A) may, in the case of any individual outside the territorial jurisdiction of any court of the United States, be served in the manner referred to in subsection (d) of section 1204, and the United States District Court for the District of Columbia may, with respect to any such individual, compel compliance in accordance with such subsection.

"(4) Witnesses (whether appearing voluntarily or under subpoena) shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

"(c)(1) Except as provided in paragraph (2), the Special Counsel may as a matter of right intervene or otherwise participate in any proceeding before the Merit Systems Protection Board, except that the Special Counsel shall comply with the rules of the Board.

"(2) The Special Counsel may not intervene in an action brought by an individual under section 1221, or in an appeal brought by an individual under section 7701, without the consent of such individual.

"(d)(1) The Special Counsel may appoint the legal, administrative, and support personnel necessary to perform the functions of the Special Counsel.

"(2) Any appointment made under this subsection shall be made in accordance with the provisions of this title, except that such appointment shall not be subject to the approval or supervision of the Office of Personnel Management or the Executive Office of the President (other than approval required under section 3324 or subchapter VIII of chapter 33).

Federal Register, publication.

"(e) The Special Counsel may prescribe such regulations as may be necessary to perform the functions of the Special Counsel. Such regulations shall be published in the Federal Register.

"(f) The Special Counsel may not issue any advisory opinion concerning any law, rule, or regulation (other than an advisory opinion concerning chapter 15 or subchapter III of chapter 73).

"(g)(1) The Special Counsel may not respond to any inquiry or provide information concerning any person making an allegation under section 1214(a), except in accordance with the provisions of section 552a of title 5, United States Code, or as required by any other applicable Federal law.

"(2) Notwithstanding the exception under paragraph (1), the Special Counsel may not respond to any inquiry concerning a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a person described in paragraph (1)—

"(A) unless the consent of the individual as to whom the information pertains is obtained in advance; or

"(B) except upon request of an agency which requires such information in order to make a determination concerning an individual's having access to the information unauthorized disclosure of which could be expected to cause exceptionally grave damage to the national security.

"§ 1213. Provisions relating to disclosures of violations of law, gross mismanagement, and certain other matters

"(a) This section applies with respect to—

"(1) any disclosure of information by an employee, former employee, or applicant for employment which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; and

"(2) any disclosure by an employee, former employee, or applicant for employment to the Special Counsel or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information which the employee, former employee, or applicant reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Public health and safety.

"(b) Whenever the Special Counsel receives information of a type described in subsection (a) of this section, the Special Counsel shall review such information and, within 15 days after receiving the information, determine whether there is a substantial likelihood that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health and safety.

"(c)(1) Subject to paragraph (2), if the Special Counsel makes a positive determination under subsection (b) of this section, the Special Counsel shall promptly transmit the information with respect to which the determination was made to the appropriate agency head and require that the agency head—

"(A) conduct an investigation with respect to the information and any related matters transmitted by the Special Counsel to the agency head; and

Reports.

"(B) submit a written report setting forth the findings of the agency head within 60 days after the date on which the information is transmitted to the agency head or within any longer period of time agreed to in writing by the Special Counsel.

"(2) The Special Counsel may require an agency head to conduct an investigation and submit a written report under paragraph (1) only if the information was transmitted to the Special Counsel by—

"(A) an employee, former employee, or applicant for employment in the agency which the information concerns; or

"(B) an employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

"(d) Any report required under subsection (c) shall be reviewed and signed by the head of the agency and shall include—

"(1) a summary of the information with respect to which the investigation was initiated;

"(2) a description of the conduct of the investigation;

"(3) a summary of any evidence obtained from the investigation;

"(4) a listing of any violation or apparent violation of any law, rule, or regulation; and

"(5) a description of any action taken or planned as a result of the investigation, such as—

"(A) changes in agency rules, regulations, or practices;

"(B) the restoration of any aggrieved employee;

"(C) disciplinary action against any employee; and

"(D) referral to the Attorney General of any evidence of a criminal violation.

"(e)(1) Any such report shall be submitted to the Special Counsel, and the Special Counsel shall transmit a copy to the complainant, except as provided under subsection (f) of this section. The complainant may submit comments to the Special Counsel on the agency report within 15 days of having received a copy of the report.

"(2) Upon receipt of any report of the head of an agency required under subsection (c) of this section, the Special Counsel shall review the report and determine whether—

"(A) the findings of the head of the agency appear reasonable; and

"(B) the report of the agency under subsection (c)(1) of this section contains the information required under subsection (d) of this section.

"(3) The Special Counsel shall transmit any agency report received pursuant to subsection (c) of this section, any comments provided by the complainant pursuant to subsection (e)(1), and any appropriate comments or recommendations by the Special Counsel to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General.

"(4) Whenever the Special Counsel does not receive the report of the agency within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to the President, the congressional committees with jurisdiction over the agency which the disclosure involves, and the Comptroller General together with a statement noting the failure of the head of the agency to file the required report.

"(f) In any case in which evidence of a criminal violation obtained by an agency in an investigation under subsection (c) of this section is referred to the Attorney General—

"(1) the report shall not be transmitted to the complainant; and

"(2) the agency shall notify the Office of Personnel Management and the Office of Management and Budget of the referral.

"(g)(1) If the Special Counsel receives information of a type described in subsection (a) from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2), the Special

Counsel may transmit the information to the head of the agency which the information concerns. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action shall be completed. The Special Counsel shall inform the individual of the report of the agency head. If the Special Counsel does not transmit the information to the head of the agency, the Special Counsel shall return any documents and other matter provided by the individual who made the disclosure.

"(2) If the Special Counsel receives information of a type described in subsection (a) from an individual described in subparagraph (A) or (B) of subsection (c)(2), but does not make a positive determination under subsection (b), the Special Counsel may transmit the information to the head of the agency which the information concerns, except that the information may not be transmitted to the head of the agency without the consent of the individual. The head of such agency shall, within a reasonable time after the information is transmitted, inform the Special Counsel in writing of what action has been or is being taken and when such action will be completed. The Special Counsel shall inform the individual of the report of the agency head.

"(3) If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall—

"(A) return any documents and other matter provided by the individual who made the disclosure; and

"(B) inform the individual of—

"(i) the reasons why the disclosure may not be further acted on under this chapter; and

"(ii) other offices available for receiving disclosures, should the individual wish to pursue the matter further.

Public health and safety.

"(h) The identity of any individual who makes a disclosure described in subsection (a) may not be disclosed by the Special Counsel without such individual's consent unless the Special Counsel determines that the disclosure of the individual's identity is necessary because of an imminent danger to public health or safety or imminent violation of any criminal law.

Classified information.

"(i) Except as specifically authorized under this section, the provisions of this section shall not be considered to authorize disclosure of any information by any agency or any person which is—

"(1) specifically prohibited from disclosure by any other provision of law; or

Defense and national security.

"(2) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Classified information. Defense and national security.

"(j) With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to the National Security Advisor, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.

"§ 1214. Investigation of prohibited personnel practices; corrective action

"(a)(1)(A) The Special Counsel shall receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(B) Within 15 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall provide written notice to the person who made the allegation that—

"(i) the allegation has been received by the Special Counsel; and

"(ii) shall include the name of a person at the Office of Special Counsel who shall serve as a contact with the person making the allegation.

"(C) Unless an investigation is terminated under paragraph (2), the Special Counsel shall—

"(i) within 90 days after notice is provided under subparagraph (B), notify the person who made the allegation of the status of the investigation and any action taken by the Office of the Special Counsel since the filing of the allegation;

"(ii) notify such person of the status of the investigation and any action taken by the Office of the Special Counsel since the last notice, at least every 60 days after notice is given under clause (i); and

"(iii) notify such person of the status of the investigation and any action taken by the Special Counsel at such time as determined appropriate by the Special Counsel.

"(2)(A) If the Special Counsel terminates any investigation under paragraph (1), the Special Counsel shall prepare and transmit to any person on whose allegation the investigation was initiated a written statement notifying the person of—

"(i) the termination of the investigation;

"(ii) a summary of relevant facts ascertained by the Special Counsel, including the facts that support, and the facts that do not support, the allegations of such person; and

"(iii) the reasons for terminating the investigation.

"(B) A written statement under subparagraph (A) may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person who received such statement under subparagraph (A).

"(3) Except in a case in which an employee, former employee, or applicant for employment has the right to appeal directly to the Merit Systems Protection Board under any law, rule, or regulation, any such employee, former employee, or applicant shall seek corrective action from the Special Counsel before seeking corrective action from the Board. An employee, former employee, or applicant for employment may seek corrective action from the Board under section 1221, if such employee, former employee, or applicant seeks corrective action for a prohibited personnel practice described in section 2302(b)(8) from the Special Counsel and—

"(A)(i) the Special Counsel notifies such employee, former employee, or applicant that an investigation concerning such employee, former employee, or applicant has been terminated; and

"(ii) no more than 60 days have elapsed since notification was provided to such employee, former employee, or applicant for employment that such investigation was terminated; or

"(B) 120 days after seeking corrective action from the Special Counsel, such employee, former employee, or applicant has not been notified by the Special Counsel that the Special Counsel shall seek corrective action on behalf of such employee, former employee, or applicant.

"(4) If an employee, former employee, or applicant seeks a corrective action from the Board under section 1221, pursuant to the provisions of paragraph (3)(B), the Special Counsel may continue to seek corrective action personal to such employee, former employee, or applicant only with the consent of such employee, former employee, or applicant.

"(5) In addition to any authority granted under paragraph (1), the Special Counsel may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or a pattern of prohibited personnel practices) has occurred, exists, or is to be taken.

"(b)(1)(A)(i) The Special Counsel may request any member of the Merit Systems Protection Board to order a stay of any personnel action for 45 days if the Special Counsel determines that there are reasonable grounds to believe that the personnel action was taken, or is to be taken, as a result of a prohibited personnel practice.

"(ii) Any member of the Board requested by the Special Counsel to order a stay under clause (i) shall order such stay unless the member determines that, under the facts and circumstances involved, such a stay would not be appropriate.

"(iii) Unless denied under clause (ii), any stay under this subparagraph shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Special Counsel.

"(B) The Board may extend the period of any stay granted under subparagraph (A) for any period which the Board considers appropriate.

"(C) The Board shall allow any agency which is the subject of a stay to comment to the Board on any extension of stay proposed under subparagraph (B).

"(D) A stay may be terminated by the Board at any time, except that a stay may not be terminated by the Board—

"(i) on its own motion or on the motion of an agency, unless notice and opportunity for oral or written comments are first provided to the Special Counsel and the individual on whose behalf the stay was ordered; or

"(ii) on motion of the Special Counsel, unless notice and opportunity for oral or written comments are first provided to the individual on whose behalf the stay was ordered.

Reports.

"(2)(A) If, in connection with any investigation, the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken which requires corrective action, the Special Counsel shall report the determination together with any findings or recommendations to the Board, the agency involved and to the Office of Personnel Management, and may report such determination, findings and recommendations to the President. The Special Counsel may include in the report recommendations for corrective action to be taken.

"(B) If, after a reasonable period of time, the agency does not act to correct the prohibited personnel practice, the Special Counsel may petition the Board for corrective action.

"(C) If the Special Counsel finds, in consultation with the individual subject to the prohibited personnel practice, that the agency has acted to correct the prohibited personnel practice, the Special Counsel shall file such finding with the Board, together with any written comments which the individual may provide.

"(3) Whenever the Special Counsel petitions the Board for corrective action, the Board shall provide an opportunity for—

"(A) oral or written comments by the Special Counsel, the agency involved, and the Office of Personnel Management; and

"(B) written comments by any individual who alleges to be the subject of the prohibited personnel practice.

"(4)(A) The Board shall order such corrective action as the Board considers appropriate, if the Board determines that the Special Counsel has demonstrated that a prohibited personnel practice, other than one described in section 2302(b)(8), has occurred, exists, or is to be taken.

"(B)(i) Subject to the provisions of clause (ii), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the Special Counsel has demonstrated that a disclosure described under section 2302(b)(8) was a contributing factor in the personnel action which was taken or is to be taken against the individual.

"(ii) Corrective action under clause (i) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

"(c)(1) Judicial review of any final order or decision of the Board under this section may be obtained by any employee, former employee, or applicant for employment adversely affected by such order or decision.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

Reports.

"(d)(1) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that a criminal violation has occurred, the Special Counsel shall report the determination to the Attorney General and to the head of the agency involved, and shall submit a copy of the report to the Director of the Office of Personnel Management and the Director of the Office of Management and Budget.

"(2) In any case in which the Special Counsel determines that there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken, the Special Counsel shall proceed with any investigation or proceeding unless—

"(A) the alleged violation has been reported to the Attorney General; and

"(B) the Attorney General is pursuing an investigation, in which case the Special Counsel, after consultation with the Attorney General, has discretion as to whether to proceed.

Reports.

"(e) If, in connection with any investigation under this subchapter, the Special Counsel determines that there is reasonable cause to believe that any violation of any law, rule, or regulation has occurred other than one referred to in subsection (b) or (d), the Special Counsel shall report such violation to the head of the agency involved. The Special Counsel shall require, within 30 days after the receipt of the report by the agency, a certification by the head of the agency which states—

"(1) that the head of the agency has personally reviewed the report; and

"(2) what action has been or is to be taken, and when the action will be completed.

"(f) During any investigation initiated under this subchapter, no disciplinary action shall be taken against any employee for any alleged prohibited activity under investigation or for any related activity without the approval of the Special Counsel.

"§ 1215. Disciplinary action

"(a)(1) Except as provided in subsection (b), if the Special Counsel determines that disciplinary action should be taken against any employee for having—

"(A) committed a prohibited personnel practice,

"(B) violated the provisions of any law, rule, or regulation, or engaged in any other conduct within the jurisdiction of the Special Counsel as described in section 1216, or

"(C) knowingly and willfully refused or failed to comply with an order of the Merit Systems Protection Board,

the Special Counsel shall prepare a written complaint against the employee containing the Special Counsel's determination, together with a statement of supporting facts, and present the complaint and statement to the employee and the Board, in accordance with this subsection.

"(2) Any employee against whom a complaint has been presented to the Merit Systems Protection Board under paragraph (1) is entitled to—

"(A) a reasonable time to answer orally and in writing, and to furnish affidavits and other documentary evidence in support of the answer;

"(B) be represented by an attorney or other representative;

"(C) a hearing before the Board or an administrative law judge appointed under section 3105 and designated by the Board;

Records.

"(D) have a transcript kept of any hearing under subparagraph (C); and

"(E) a written decision and reasons therefor at the earliest practicable date, including a copy of any final order imposing disciplinary action.

"(3) A final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.

"(4) There may be no administrative appeal from an order of the Board. An employee subject to a final order imposing disciplinary action under this subsection may obtain judicial review of the order by filing a petition therefor with such court, and within such time, as provided for under section 7703(b).

State and local governments.

"(5) In the case of any State or local officer or employee under chapter 15, the Board shall consider the case in accordance with the provisions of such chapter.

"(b) In the case of an employee in a confidential, policy-making, policy-determining, or policy-advocating position appointed by the President, by and with the advice and consent of the Senate (other than an individual in the Foreign Service of the United States), the complaint and statement referred to in subsection (a)(1), together with any response of the employee, shall be presented to the President for appropriate action in lieu of being presented under subsection (a).

Uniformed services.

"(c)(1) In the case of members of the uniformed services and individuals employed by any person under contract with an agency to provide goods or services, the Special Counsel may transmit recommendations for disciplinary or other appropriate action (including the evidence on which such recommendations are based) to the head of the agency concerned.

Reports.

"(2) In any case in which the Special Counsel transmits recommendations to an agency head under paragraph (1), the agency head shall, within 60 days after receiving such recommendations, transmit a report to the Special Counsel on each recommendation and the action taken, or proposed to be taken, with respect to each such recommendation.

"§ 1216. Other matters within the jurisdiction of the Office of Special Counsel

"(a) In addition to the authority otherwise provided in this chapter, the Special Counsel shall, except as provided in subsection (b), conduct an investigation of any allegation concerning—

"(1) political activity prohibited under subchapter III of chapter 73, relating to political activities by Federal employees;

State and local governments.

"(2) political activity prohibited under chapter 15, relating to political activities by certain State and local officers and employees;

"(3) arbitrary or capricious withholding of information prohibited under section 552, except that the Special Counsel shall make no investigation of any withholding of foreign intelligence or counterintelligence information the disclosure of which is specifically prohibited by law or by Executive order;

"(4) activities prohibited by any civil service law, rule, or regulation, including any activity relating to political intrusion in personnel decisionmaking; and

"(5) involvement by any employee in any prohibited discrimination found by any court or appropriate administrative authority to have occurred in the course of any personnel action.

"(b) The Special Counsel shall make no investigation of any allegation of any prohibited activity referred to in subsection (a)(5), if the Special Counsel determines that the allegation may be resolved more appropriately under an administrative appeals procedure.

"(c)(1) If an investigation by the Special Counsel under subsection (a)(1) substantiates an allegation relating to any activity prohibited under section 7324, the Special Counsel may petition the Merit Systems Protection Board for any penalties provided for under section 7325.

"(2) If the Special Counsel receives an allegation concerning any matter under paragraph (3), (4), or (5) of subsection (a), the Special Counsel may investigate and seek corrective action under section 1214 in the same way as if a prohibited personnel practice were involved.

"§ 1217. Transmittal of information to Congress

"The Special Counsel or any employee of the Special Counsel designated by the Special Counsel, shall transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and the Special Counsel's views on functions, responsibilities, or other matters relating to the Office. Such information shall be transmitted concurrently to the President and any other appropriate agency in the executive branch.

"§ 1218. Annual report

"The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, and actions initiated by it before the Merit Systems Protection Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this subchapter, and the actions taken by the agencies as a result of the reports or recommendations. The report required by this section shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.

"§ 1219. Public information

Records.

"(a) The Special Counsel shall maintain and make available to the public—

"(1) a list of noncriminal matters referred to heads of agencies under subsection (c) of section 1213, together with reports from heads of agencies under subsection (c)(1)(B) of such section relating to such matters;

"(2) a list of matters referred to heads of agencies under section 1215(c)(2);

"(3) a list of matters referred to heads of agencies under subsection (e) of section 1214, together with certifications from heads of agencies under such subsection; and

"(4) reports from heads of agencies under section 1213(g)(1).

Classified information. Defense and national security.

"(b) The Special Counsel shall take steps to ensure that any list or report made available to the public under this section does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

"§ 1221. Individual right of action in certain reprisal cases

"(a) Subject to the provisions of subsection (b) of this section and subsection 1214(a)(3), an employee, former employee, or applicant for employment may, with respect to any personnel action taken, or proposed to be taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302(b)(8), seek corrective action from the Merit Systems Protection Board.

"(b) This section may not be construed to prohibit any employee, former employee, or applicant for employment from seeking corrective action from the Merit Systems Protection Board before seeking corrective action from the Special Counsel, if such employee, former employee, or applicant for employment has the right to appeal directly to the Board under any law, rule, or regulation.

"(c)(1) Any employee, former employee, or applicant for employment seeking corrective action under subsection (a) may request that the Board order a stay of the personnel action involved.

"(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines that such a stay would be appropriate.

"(3)(A) The Board shall allow any agency which would be subject to a stay under this subsection to comment to the Board on such stay request.

"(B) Except as provided in subparagraph (C), a stay granted under this subsection shall remain in effect for such period as the Board determines to be appropriate.

"(C) The Board may modify or dissolve a stay under this subsection at any time, if the Board determines that such a modification or dissolution is appropriate.

"(d)(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board may issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that such subpoena is necessary for the development of relevant evidence.

"(2) A subpoena under this subsection may be issued, and shall be enforced, in the same manner as applies in the case of subpoenas under section 1204.

"(e)(1) Subject to the provisions of paragraph (2), in any case involving an alleged prohibited personnel practice as described under section 2302(b)(8), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that a disclosure described under section 2302(b)(8) was a contributing factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant.

"(2) Corrective action under paragraph (1) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of such disclosure.

"(f)(1) A final order or decision shall be rendered by the Board as soon as practicable after the commencement of any proceeding under this section.

"(2) A decision to terminate an investigation under subchapter II may not be considered in any action or other proceeding under this section.

"(g)(1) If an employee, former employee, or applicant for employment is the prevailing party before the Merit Systems Protection Board, and the decision is based on a finding of a prohibited personnel practice, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney's fees and any other reasonable costs incurred.

"(2) If an employee, former emloyee, or applicant for employment is the prevailing party in an appeal from the Merit Systems Protection Board, the agency involved shall be liable to the employee, former employee, or applicant for reasonable attorney's fees and any other reasonable costs incurred, regardless of the basis of the decision.

"(h)(1) An employee, former employee, or applicant for employment adversely affected or aggrieved by a final order or decision of the Board under this section may obtain judicial review of the order or decision.

"(2) A petition for review under this subsection shall be filed with such court, and within such time, as provided for under section 7703(b).

"(i) Subsections (a) through (h) shall apply in any proceeding brought under section 7513(d) if, or to the extent that, a prohibited personnel practice as defined in section 2302(b)(8) is alleged.

"(j) In determining the appealability of any case involving an allegation made by an individual under the provisions of this chapter, neither the status of an individual under any retirement system established under a Federal statute nor any election made by such individual under any such system may be taken into account.

"§ 1222. Availability of other remedies

"Except as provided in section 1221(i), nothing in this chapter or chapter 23 shall be construed to limit any right or remedy available under a provision of statute which is outside of both this chapter and chapter 23.".

(b) CONFORMING AMENDMENTS.—(1) The table of chapters for part II of title 5, United States Code, is amended by striking the item relating to chapter 12 and inserting in lieu thereof the following:

"12. Merit Systems Protection Board, Office of Special Counsel, and Individual Right of Action .... 1201".

(2) The heading for chapter 12 of title 5, United States Code, is amended to read as follows:

"CHAPTER 12—MERIT SYSTEMS PROTECTION BOARD, OFFICE OF SPECIAL COUNSEL, AND EMPLOYEE RIGHT OF ACTION".

(3) The table of sections for chapter 12 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD

"Sec. 1201. Appointment of members of the Merit Systems Protection Board.
"Sec. 1202. Term of office; filling vacancies; removal.
"Sec. 1203. Chairman; Vice Chairman.
"Sec. 1204. Powers and functions of the Merit Systems Protection Board.
"Sec. 1205. Transmittal of information to Congress.
"Sec. 1206. Annual report.

"SUBCHAPTER II—OFFICE OF SPECIAL COUNSEL

"Sec. 1211. Establishment.
"Sec. 1212. Powers and functions of the Office of Special Counsel.
"Sec. 1213. Provisions relating to disclosures of violations of law, mismanagement, and certain other matters.
"Sec. 1214. Investigation of prohibited personnel practices; corrective action.
"Sec. 1215. Disciplinary action.
"Sec. 1216. Other matters within the jurisdiction of the Office of Special Counsel.
"Sec. 1217. Transmittal of information to Congress.
"Sec. 1218. Annual report.
"Sec. 1219. Public information.

"SUBCHAPTER III—INDIVIDUAL RIGHT OF ACTION IN CERTAIN REPRISAL CASES

"Sec. 1221. Individual right of action in certain reprisal cases.
"Sec. 1222. Availability of other remedies.".

(4) Chapter 12 of title 5, United States Code, is further amended by inserting before section 1201 the following subchapter heading:

"SUBCHAPTER I—MERIT SYSTEMS PROTECTION BOARD".

SEC. 4. REPRISALS.

(a) AMENDMENTS TO SECTION 2302(b)(8).—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) by inserting ", or threaten to take or fail to take," after "take or fail to take";

(2) by striking out "as a reprisal for" and inserting in lieu thereof "because of";

(3) in subparagraph (A) by striking out "a disclosure" and inserting in lieu thereof "any disclosure";

(4) in subparagraph (A)(ii) by inserting "gross" before "mismanagement";

(5) in subparagraph (B) by striking out "a disclosure" and inserting in lieu thereof "any disclosure"; and

(6) in subparagraph (B)(ii) by inserting "gross" before "mismanagement".

(b) AMENDMENT TO SECTION 2302(b)(9).—Section 2302(b)(9) of title 5, United States Code, is amended to read as follows:

"(9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of—

"(A) the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;

"(B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A);

"(C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or

"(D) for refusing to obey an order that would require the individual to violate a law;".

SEC. 5. PREFERENCE IN TRANSFERS FOR WHISTLEBLOWERS.

(a) IN GENERAL.—Subchapter IV of chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 3352. Preference in transfers for employees making certain disclosures

"(a) Subject to the provisions of subsections (d) and (e), in filling a position within any Executive agency, the head of such agency may give preference to any employee of such agency, or any other Executive agency, to transfer to a position of the same status and tenure as the position of such employee on the date of applying for a transfer under subsection (b) if—

"(1) such employee is otherwise qualified for such position;

"(2) such employee is eligible for appointment to such position; and

"(3) the Merit Systems Protection Board makes a determination under the provisions of chapter 12 that a prohibited personnel action described under section 2302(b)(8) was taken against such employee.

"(b) An employee who meets the conditions described under subsection (a) (1), (2), and (3) may voluntarily apply for a transfer to a position, as described in subsection (a), within the Executive agency employing such employee or any other Executive agency.

"(c) If an employee applies for a transfer under the provisions of subsection (b) and the selecting official rejects such application, the selecting official shall provide the employee with a written notification of the reasons for the rejection within 30 days after receiving such application.

"(d) An employee whose application for transfer is rejected under the provisions of subsection (c) may request the head of such agency to review the rejection. Such request for review shall be submitted to the head of the agency within 30 days after the employee receives notification under subsection (c). Within 30 days after receiving a request for review, the head of the agency shall complete the review and provide a written statement of findings to the employee and the Merit Systems Protection Board.

"(e) The provisions of subsection (a) shall apply with regard to any employee—

"(1) for no more than 1 transfer;

"(2) for a transfer from or within the agency such employee is employed at the time of a determination by the Merit Systems Protection Board that a prohibited personnel action as described under section 2302(b)(8) was taken against such employee; and

"(3) no later than 18 months after such a determination is made by the Merit Systems Protection Board.

"(f) Notwithstanding the provisions of subsection (a), no preference may be given to any employee applying for a transfer under subsection (b), with respect to a preference eligible (as defined under section 2108(3)) applying for the same position.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3351 the following:

"3352. Preference in transfers for employees making certain disclosures.".

SEC. 6. INTERIM RELIEF.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (b) as paragraph (1) of subsection (b); and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) If an employee or applicant for employment is the prevailing party in an appeal under this subsection, the employee or applicant shall be granted the relief provided in the decision effective upon the making of the decision, and remaining in effect pending the outcome of any petition for review under subsection (e), unless—

"(i) the deciding official determines that the granting of such relief is not appropriate; or

"(ii)(I) the relief granted in the decision provides that such employee or applicant shall return or be present at the place of employment during the period pending the outcome of any petition for review under subsection (e); and

"(II) the employing agency, subject to the provisions of subparagraph (B), determines that the return or presence of such employee or applicant is unduly disruptive to the work environment.

"(B) If an agency makes a determination under subparagraph (A)(ii)(II) that prevents the return or presence of an employee at the place of employment, such employee shall receive pay, compensation, and all other benefits as terms and conditions of employment during the period pending the outcome of any petition for review under subsection (e).

"(C) Nothing in the provisions of this paragraph may be construed to require any award of back pay or attorney fees be paid before the decision is final.".

5 USC 1201 note.

SEC. 7. SAVINGS PROVISIONS.

(a) ORDERS, RULES, AND REGULATIONS.—All orders, rules, and regulations issued by the Merit Systems Protection Board or the Special Counsel before the effective date of this Act shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed.

(b) ADMINISTRATIVE PROCEEDINGS.—No provision of this Act shall affect any administrative proceeding pending at the time such provisions take effect. Orders shall be issued in such proceedings, and appeals shall be taken therefrom, as if this Act had not been enacted.

(c) SUITS AND OTHER PROCEEDINGS.—No suit, action, or other proceeding lawfully commenced by or against the members of the Merit Systems Protection Board, the Special Counsel, or officers or employees thereof, in their official capacity or in relation to the discharge of their official duties, as in effect immediately before the effective date of this Act, shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS; RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978; TRANSFER OF FUNDS.

5 USC 5509 note.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated—

(1) for each of fiscal years 1989, 1990, 1991, 1992, 1993, and 1994, such sums as necessary to carry out subchapter I of chapter 12 of title 5, United States Code (as amended by this Act); and

(2) for each of fiscal years 1989, 1990, 1991, and 1992, such sums as necessary to carry out subchapter II of chapter 12 of title 5, United States Code (as amended by this Act).

5 USC 5509 note.

(b) RESTRICTION RELATING TO APPROPRIATIONS UNDER THE CIVIL SERVICE REFORM ACT OF 1978.—No funds may be appropriated to the Merit Systems Protection Board or the Office of Special Counsel pursuant to section 903 of the Civil Service Reform Act of 1978 (5 U.S.C. 5509 note).

5 USC 1211 note.

(c) TRANSFER OF FUNDS.—The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available to the Special Counsel of the Merit Systems Protection Board are, subject to section 1531 of title 31, United States Code, transferred to the Special Counsel referred to in section 1211 of title 5, United States Code (as added by section 3(a) of this Act), for appropriate allocation.

SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.

(a)(1) Section 2303(c) of title 5, United States Code, is amended by striking "the provisions of section 1206" and inserting "applicable provisions of sections 1214 and 1221".

(2) Sections 7502, 7512(E), 7521(b)(C), and 7542 of title 5, United States Code, are amended by striking "1206" and inserting "1215".

(3) Section 1109(a) of the Foreign Service Act of 1980 (22 U.S.C. 4139(a)) is amended by striking "1206" and inserting "1214 or 1221".

(b) Section 3393(g) of title 5, United States Code, is amended by striking "1207" and inserting "1215".

SEC. 10. BOARD RESPONDENT.

Section 7703(a)(2) of title 5, United States Code, is amended to read as follows:

> "(2) The Board shall be named respondent in any proceeding brought pursuant to this subsection, unless the employee or applicant for employment seeks review of a final order or decision on the merits on the underlying personnel action or on a request for attorney fees, in which case the agency responsible for taking the personnel action shall be the respondent.".

SEC. 11. EFFECTIVE DATE.

5 USC 1201 note.

This Act and the amendments made by this Act shall take effect 90 days following the date of enactment of this Act.

Approved April 10, 1989.

LEGISLATIVE HISTORY—S. 20:

CONGRESSIONAL RECORD, Vol. 135 (1989):
    Mar. 16, considered and passed Senate.
    Mar. 21, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
    Apr. 10, Presidential statement and remarks.

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Public Law 101-13
101st Congress

Joint Resolution

Apr. 13, 1989
[S.J. Res. 43]

Designating April 9, 1989, as "National Former Prisoners of War Recognition Day".

Whereas the United States has fought in many wars;

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many such prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of such treatment;

Whereas in 1985, the United States Congress (in Public Law 99-145) directed the Department of Defense to issue a medal to former prisoners of war in recognition and commemoration of their great sacrifices in service to our Nation; and

Whereas these great sacrifices by former prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1989, is designated as "National Former Prisoners of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such days with appropriate ceremonies and activities.

Approved April 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 43:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 8, considered and passed Senate.
Apr. 5, considered and passed House.

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Public Law 101-14
101st Congress

An Act

To implement the Bipartisan Accord on Central America of March 24, 1989.

Apr. 18, 1989
[H.R. 1750]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nicaragua.

SECTION 1. POLICY.

The purpose of this Act is to implement the Bipartisan Accord on Central America between the President and the Congress signed on March 24, 1989.

SEC. 2. ADDITIONAL HUMANITARIAN ASSISTANCE.

(a) TRANSFER OF FUNDS.—The President may transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified in section 6—

(1) up to $49,750,000, to provide humanitarian assistance to the Nicaraguan Resistance, to remain available through February 28, 1990;

(2) such funds as may be necessary to provide transportation in accordance with section 3 for assistance authorized by paragraph (1); and

(3) not to exceed $5,000,000 to "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out this Act, to remain available through March 31, 1990.

(b) DEFINITION.—For purposes of this section and section 3, the term "humanitarian assistance" means—

(1) food, clothing, and shelter;

(2) medical services, medical supplies, and nonmilitary training for health and sanitation;

(3) nonmilitary training of the recipients with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights;

(4) payment for such items, services, and training;

(5) replacement batteries for existing communications equipment; and

(6) support for voluntary reintegration of and voluntary regional relocation by the Nicaraguan Resistance.

SEC. 3. TRANSPORTATION OF HUMANITARIAN ASSISTANCE.

(a) IN GENERAL.—The transportation of humanitarian assistance on or after the date of enactment of this Act which, before such date, was specifically authorized by law to be provided to the Nicaraguan Resistance, or which is authorized to be provided by section 2, shall be arranged solely by the Agency for International Development in a manner consistent with the Bipartisan Accord on Central America between the President and the Congress signed on March 24, 1989.

(b) PROHIBITION ON MIXED LOADS.—Transportation of any military assistance, or of any assistance other than that specified in 2(b), is prohibited.

SEC. 4. MEDICAL ASSISTANCE.

The President may transfer, in addition to funds transferred prior to March 31, 1989, to the Administrator of the Agency for International Development from unobligated funds from appropriations accounts specified in section 6, up to $4,166,000, to be used only for the provision of medical assistance for the civilian victims of the Nicaraguan civil strife to be transported and administered by the Catholic Church in Nicaragua.

SEC. 5. UNITED STATES POLICY CONCERNING ECONOMIC ASSISTANCE FOR CENTRAL AMERICA.

As part of an effort to promote democracy and address on a long-term basis the economic causes of regional and political instability in Central America—

(1) in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission;

(2) to assist in the implementation of these economic plans and to encourage other countries in other parts of the world to join in extending assistance to Central America; and

(3) in the context of an agreement to end military conflict in the region;

the Congress encourages the President to submit proposals for bilateral and multilateral action—

(A) to provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(B) to facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports, and the strengthening of increased investment opportunities;

(C) to provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(D) to develop these initiatives in concert with Western Europe, Japan, and other democratic allies.

SEC. 6. SOURCE OF FUNDS; AND RESCISSION.

(INCLUDING TRANSFERS AND RESCISSION)

(a) SOURCE OF FUNDS.—The appropriations accounts from which funds may be transferred pursuant to sections 2 and 4 are the following accounts in amounts not to exceed the following:

(1) Missile Procurement, Army, 1988, $3,500,000.

(2) Procurement of Weapons and Tracked Combat Vehicles, Army, 1987, $12,739,000.

(3) Other Procurement, Army, 1988, $761,000.

(4) Research, Development, Test and Evaluation, Air Force, 1988, $1,902,000.

(5) Weapons Procurement, Navy, 1989, $2,000,000.

(6) Research, Development, Test and Evaluation, Navy, 1989, $13,400,000.

(7) Other Procurement, Air Force, 1987, $32,300,000.

(b) RESCISSION.—Of the funds available for Research, Development, Test and Evaluation, Navy, 1989, $10,600,000 is hereby rescinded.

SEC. 7. PROHIBITION ON THE USE OF CERTAIN FUNDS.

(a) MILITARY OPERATIONS.—No funds available to any agency or entity of the United States Government under this Act may be obligated or expended pursuant to section 502(a)(2) of the National Security Act of 1947 for the purpose of providing funds, materiel, or other assistance to the Nicaraguan Resistance to support military or paramilitary operations in Nicaragua.

(b) HUMAN RIGHTS AND OTHER VIOLATIONS.—No assistance under this Act may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502(B)(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

SEC. 8. STANDARDS, PROCEDURES, CONTROLS, AND OVERSIGHT.

(a) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROL.—In implementing this Act, the Agency for International Development, and any other agency of the United States Government authorized to carry out activities under this Act, shall adopt the standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan Resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) and title IX of Public Law 100-463. Any changes in such standards, procedures, and controls shall be developed and adopted in consultation with the committees designated in subsection (b).

(b) CONGRESSIONAL OVERSIGHT.—Congressional oversight within the House of Representatives and the Senate with respect to assistance provided by this Act shall be within the jurisdiction of the Committees on Appropriations of the House of Representatives and Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.

(c) EXTENSION OF PREVIOUS PROVISIONS.—The provisions of the Act of April 1, 1988 (Public Law 100-276), contained in subsections (b), (d), and (e) of section 4 and in section 5 shall apply to the provision of assistance under this Act except that section 4(d) shall not apply to the Intelligence Community.

SEC. 9. PROHIBITION.

Except as provided in this Act, no additional assistance may be provided to the Nicaraguan Resistance, unless the Congress enacts a law specifically authorizing such assistance.

SEC. 10. REPEAL.

Title IX of Public Law 100-463 is hereby repealed.

102 Stat.
2270-49.

SEC. 11. REPORTING REQUIREMENTS.

The Secretary of State shall consult regularly with and report to the Congress on progress in meeting the goals of the peace and democratization process, including the use of assistance provided in this Act.

Approved April 18, 1989.

LEGISLATIVE HISTORY—H.R. 1750 (S. 760):

HOUSE REPORTS: No. 101-23, Pt. 1 (Comm. on Foreign Affairs) and Pt. 2 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Apr. 13, considered and passed House. S. 760 considered in Senate; proceedings vacated and H.R. 1750 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  Apr. 18, Presidential remarks.

○

29-139 0 - 89 (14)

Public Law 101-15
101st Congress

Joint Resolution

To designate April 16, 1989, and April 6, 1990, as "Education Day, U.S.A.".

Apr. 18, 1989
[H.J. Res. 173]

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide Laws;

Whereas without these ethical values and principles the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement through its over one hundred and fifty centers in the United States and many more the world over has fostered and promoted these ethical values and principles throughout the world;

Whereas Rabbi Menachem Mendel Schneerson, leader of the Lubavitch movement, is universally respected and revered and his eighty-seventh year will be seen as the year of continued "turn and return", the year in which we continue to turn to an education which will return the world to the moral and ethical values contained in the Seven Noahide Laws;

Whereas, this year of 1989 (5749 on the Hebrew calendar) is the "40th Anniversary" in which the Rebbe completes the fourth decade since his ascension to the world leadership of the Lubavitch movement and spiritual guidance of world Jewry; and

Whereas this has been reflected in the "international scroll of honor" which has been signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 16, 1989, the eighty-seventh birthday of Rabbi Menachem Mendel Schneerson, leader and head of the worldwide Lubavitch movement, and April 6, 1990, are each designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe each such day with appropriate ceremonies and activities. We also call on heads of state of the world to join our President in this tribute by signing similar scrolls of honor which will be presented in their respective countries this year of the "40th Anniversary". On this occasion we would also welcome the cooperation of the Department of State in extending the good office of the United States missions to the Lubavitcher emissaries.

Approved April 18, 1989.

LEGISLATIVE HISTORY—H.J. Res. 173:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 5, considered and passed House.
Apr. 7, considered and passed Senate.

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Public Law 101-16
101st Congress

Joint Resolution

To designate April 1989 as "National Recycling Month".

Apr. 19, 1989
[H.J. Res. 102]

Whereas a solid waste disposal crisis exists in the United States;

Whereas half of the major cities in the United States will have no space available for disposal of garbage within 4 years;

Whereas trash incineration and non-incineration industries should adopt recycling methods;

Whereas source separation, mechanical separation, and community-based recycling programs divert a significant portion of waste from landfills;

Whereas recycling preserves limited landfill capacity for disposal of nontoxic waste;

Whereas recycling saves energy and avoids the pollution created in extracting resources from their natural environment;

Whereas the revenues from goods recovered by public sector recycling programs help to offset the costs of the programs;

Whereas shared savings, which accrue by avoiding the higher cost of landfills or incineration, make recycling an economically efficient disposal policy even where markets for recycled materials are weak or undeveloped;

Whereas a well-developed system of recycling scrap metals, paper, and glass already exists and significantly reduces the quantity of solid waste composed of metal, paper, and glass;

Whereas substantial increases in the amount of materials recycled will require development of markets that absorb the increase in the amount of materials recycled, known as incremental markets;

Whereas many consumer products are designed without sufficient regard for safe and efficient recycling after disposal;

Whereas the Federal Government and State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas the Federal Government and State and local governments should encourage the growth of incremental markets for materials recovered from recyclable goods;

Whereas the Federal Government and State and local governments should promote the design of products that can be recycled safely and efficiently after use;

Whereas the Federal Government and State and local governments should establish requirements for in-home separation of waste to enable efficient recycling; and

Whereas the people of the United States should be encouraged to participate in educational and legislative endeavors that promote waste separation methods, community-based recycling programs, and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1989 is designated as "National Recycling Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved April 19, 1989.

LEGISLATIVE HISTORY—H.J. Res. 102 (S.J. Res. 61):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 23, considered and passed House.
Apr. 5, S.J. Res. 61 considered and passed Senate.
Apr. 6, H.J. Res. 102 considered and passed Senate.

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Public Law 101-17
101st Congress

An Act

To allow an obsolete Navy drydock to be transferred to the city of Jacksonville, Florida, before the expiration of the otherwise applicable 60-day congressional review period.

Apr. 20, 1989
[H.R. 666]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer, under section 7308(a) of such title, by the Secretary of the Navy of the obsolete drydock AFDM-9 to the city of Jacksonville, Florida.

Approved April 20, 1989.

LEGISLATIVE HISTORY—H.R. 666:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 21, considered and passed House.
Apr. 5, considered and passed Senate.

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Public Law 101-18
101st Congress

Joint Resolution

Apr. 20, 1989
[H.J. Res. 112]

Designating April 23, 1989, through April 29, 1989, and April 23, 1990, through April 29, 1990, as "National Organ and Tissue Donor Awareness Week".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 23, 1989, through April 29, 1989, and April 23, 1990, through April 29, 1990, as "National Organ and Tissue Donor Awareness Week".

Approved April 20, 1989.

LEGISLATIVE HISTORY—H.J. Res. 112 (S.J. Res. 56):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, S.J. Res. 56 considered and passed Senate.
Apr. 5, H.J. Res. 112 considered and passed House.
Apr. 7, considered and passed Senate.

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Public Law 101-19
101st Congress

Joint Resolution

Designating May 1989 as "Older Americans Month".

May 1, 1989
[S.J. Res. 45]

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is authorized and requested to issue a proclamation designating the month of May 1989 as "Older Americans Month" and calling on the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

Approved May 1, 1989.

LEGISLATIVE HISTORY—S.J. Res. 45:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Apr. 17, considered and passed House.

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29-139 0 - 89 (19)

Public Law 101-20
101st Congress

Joint Resolution

May 1, 1989
[S.J. Res. 92]

To invite the houses of worship of this Nation to celebrate the bicentennial of the inauguration of George Washington, the first President of the United States, by ringing bells at 12 noon on Sunday, April 30, 1989.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the houses of worship of this Nation are invited to celebrate the 200th anniversary of the inauguration of George Washington as the first President of the United States,

(2) such houses of worship are requested to ring bells at 12 noon (12 o'clock antemeridiem eastern daylight saving time) on Sunday, April 30, 1989, the date of such anniversary, and to continue, as a tribute to the first President of this Nation, such simultaneous ringing of bells for two full minutes, and

(3) the President is authorized and requested to issue a proclamation acknowledging such celebration.

Approved May 1, 1989.

LEGISLATIVE HISTORY—S.J. Res. 92:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 5, considered and passed Senate.
Apr. 25, considered and passed House.

O

Public Law 101-21
101st Congress

Joint Resolution

To designate the period commencing on May 1, 1989, and ending on May 7, 1989, as "National Drinking Water Week".

May 2, 1989
[S.J. Res. 60]

Whereas water itself is God-given, and the drinking water that flows dependably through our household taps results from the dedication of men and women who operate the public water systems of collection, storage, treatment, testing, and distribution that insures that drinking water is available, affordable, and of unquestionable quality;

Whereas the advances in health effects research and water analysis and treatment technologies, in conjunction with the Safe Drinking Water Act Amendments of 1986 (Public Law 99-339), could create major changes in the production and distribution of drinking water;

Whereas this substance, which the public uses with confidence in so many productive ways, is without doubt the single most important product in the world and a significant issue of the future;

Whereas the public expects high quality drinking water to always be there when needed; and

Whereas the public continues to increase its demand for drinking water of unquestionable quality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 1, 1989, is designated as "National Drinking Water Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies, activities, and programs designated to enhance public awareness of drinking water issues and public recognition of the difference that drinking water makes to the health, safety, and quality of the life we enjoy.

Approved May 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 60:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Apr. 25, considered and passed House.

○

Public Law 101-22
101st Congress

Joint Resolution

May 2, 1989
[S.J. Res. 84]

To designate April 30, 1989, as "National Society of the Sons of the American Revolution Centennial Day".

Whereas the National Society of the Sons of the American Revolution was established on April 30, 1889;

Whereas through patriotic, historical, and educational activities, the National Society of the Sons of the American Revolution perpetuates the memory of the patriots of the American Revolutionary War who achieved the independence of the United States;

Whereas the activities of the National Society of the Sons of the American Revolution are designed to inspire the descendants of the patriots of the American Revolution and the people of the United States with respect and reverence for the principles of government that were established by the patriots; and

Whereas the National Society of the Sons of the American Revolution celebrates its centennial in 1989: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 30, 1989, is designated as "National Society of the Sons of the American Revolution Centennial Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved May 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 84:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 19, considered and passed Senate.
Apr. 25, considered and passed House.

O

Public Law 101-23
101st Congress

Joint Resolution

To express gratitude for law enforcement personnel.

May 2, 1989
[S.J. Res. 52]

Whereas the first day of May of each year has been designated as "Law Day U.S.A." and set aside as a special day to advance equality and justice under law, to encourage citizen support for law enforcement and law observance, and to foster respect for law and an understanding of the essential place of law in the life of every citizen of the United States;

Whereas each day police officers and other law enforcement personnel perform their duties unflinchingly and without hesitation;

Whereas each year tens of thousands of law enforcement personnel are injured or assaulted in the course of duty and many are killed;

Whereas law enforcement personnel are devoted to their jobs, are underpaid for their efforts, and are tireless in their work; and

Whereas law enforcement personnel perform their duties without adequate recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in celebration of "Law Day, U.S.A.", May 1, 1989, the grateful people of this Nation give special emphasis to all law enforcement personnel of the United States, and acknowledge the unflinching and devoted service law enforcement personnel perform as such personnel help preserve domestic tranquillity and guarantee the legal rights of all individuals of this Nation.

Approved May 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 52:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Apr. 25, considered and passed House.

Public Law 101-24
101st Congress

Joint Resolution

May 3, 1989
[H.J. Res. 124]

To recognize the seventy-fifth anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services.

Whereas the Act of May 8, 1914 (38 Stat. 372), as amended, commonly known as the Smith-Lever Act of 1914, has fostered through the United States Department of Agriculture the development of a system of State Cooperative Extension Services in conjunction with our Nation's land-grant colleges and universities which disseminates and encourages the application of research-generated knowledge and leadership techniques to individuals, families and communities;

Whereas the Smith-Lever Act of 1914 has contributed greatly in assisting American farm families with the efficient production of a reliable supply of food and fiber for consumers in this country and worldwide;

Whereas the Cooperative Extension System has done much to help rural and urban adults and youth help themselves as they have steadily improved their quality of life and leadership ability; and

Whereas the relationship existing between the Federal, State and county extension services has provided for citizen input to research and educational programs of USDA and the land-grant universities for three quarters of a century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the Cooperative Extension System should continue to be supported as an important investment in the Nation's future, and that the seventy-fifth anniversary of the enactment of the Smith-Lever Act of 1914 should be commemorated on May 8, 1989.

SEC. 2. The President is authorized and requested to issue a proclamation commemorating the enactment of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's Cooperative Extension System.

Approved May 3, 1989.

LEGISLATIVE HISTORY—H.J. Res. 124:

HOUSE REPORTS: No. 101-4 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 135 (1989):
    Mar. 14, considered and passed House.
    Apr. 19, considered and passed Senate.

○

Public Law 101-25
101st Congress

Joint Resolution

To designate the week of May 7, 1989, through May 14, 1989, as "Jewish Heritage Week".

May 5, 1989
[S.J. Res. 25]

Whereas May 10, 1989, marks the forty-first anniversary of the founding of the State of Israel;

Whereas the months of April, May, and June contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Holocaust Memorial Day, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country; and

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history and traditions of the Jewish community and the contributions of Jews to our country and society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 7, 1989, through May 14, 1989, is designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, State and local government agencies, and interested organizations to observe the week with appropriate ceremonies, activities and programs.

Approved May 5, 1989.

LEGISLATIVE HISTORY—S.J. Res. 25:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
Apr. 25, considered and passed House.

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Public Law 101-26
101st Congress

An Act

May 11, 1989
[H.R. 678]

To make a correction in the Education and Training for a Competitive America Act of 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.

20 USC 5122.

Section 6142(b) of the Education and Training for a Competitive America Act of 1988 is amended by striking "fiscal year 1988" and inserting "fiscal year 1989 and such sums as may be necessary for fiscal years 1990, 1991, and 1992".

State and local governments.

SEC. 2. IMPACT AID.

20 USC 237.

(a) Federal Acquisition of Real Property.—Section 2 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereafter in this section referred to as the "Act") is amended by adding at the end thereof the following new subsection (d):

"(d) Any payment made to a local educational agency for any fiscal year prior to 1987 that is attributable to an incorrect determination under subsection (a)(1)(C) shall be deemed to have been made in accordance with such subsection.".

20 USC 238.

(b) Amount of Payments.—(1) Section 3(d)(2) of the Act is amended by inserting before subparagraph (B) a new subparagraph (A) to read as follows:

"(A) For any fiscal year after September 30, 1988, the total amount of payments under subparagraph (B) may not exceed $20,000,000.".

(2) Section 3(d)(2)(B) of the Act is amended—

(A) in the third sentence by striking "80" and inserting "95"; and

(B) by striking the seventh sentence.

20 USC 240.

(c) Payment Proration Authority.—Section 5(c)(4) of the Act is amended by striking "under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the full amount which local educational agencies are entitled to receive under such clauses" and inserting in lieu thereof "under paragraph (2)(B) or paragraph (3)(B), respectively, the full amounts that local educational agencies are entitled to receive under such paragraphs".

(d) Payments to Local Educational Agencies.—Section 5(e)(1)(A) is amended to read as follows:

"(A) For any fiscal year after September 30, 1988, the Secretary shall allocate, to any local educational agency eligible for a payment under section 3(a), not less than the product of—

"(i) the number of children in average daily attendance for the fiscal year for which the determination is made under section 3(a); and "(ii)(I) if such agency received a payment under section 3(a) in fiscal year 1987, the per pupil amount paid to that agency in fiscal year 1987; or

"(II) if such agency did not receive such a payment in fiscal year 1987, the per pupil amount such agency would have been paid in fiscal year 1987 if such agency had been eligible for payments under section 3(a) and the average daily attendance for such agency for fiscal year 1987 had been equal to the average daily attendance for such agency for the first fiscal year succeeding fiscal year 1988 for which a determination is made under section 3(a).".

(e) DISCRETIONARY ALLOCATIONS.—Paragraph (3) of section 5(e) of the Act is amended by inserting the words "subparagraph (B) of" after "under". 20 USC 240.

(f) APPLICATION DEADLINE.—The Secretary shall consider as timely filed, and shall process for payment, an application from a local educational agency that is eligible for fiscal year 1989 funds under section 2 or 3 of the Act, if such application has been certified by the State educational agency, was received by the Secretary by March 15, 1989, and is otherwise approvable. 20 USC 240 note.

SEC. 3. AMENDMENTS TO THE ADULT EDUCATION ACT.

(a) IN GENERAL.—Section 312(7) of the Adult Education Act is amended by striking "and except for the purposes of section 313,". 20 USC 1201a.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of enactment of this Act. 20 USC 1201a note.

Approved May 11, 1989.

LEGISLATIVE HISTORY—H.R. 678:

HOUSE REPORTS: No. 101-2 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Mar. 7, considered and passed House.
  Apr. 19, considered and passed Senate, amended.
  Apr. 26, House concurred in Senate amendment.

○

Public Law 101-27
101st Congress

Joint Resolution

May 11, 1989
[S.J. Res. 62]

Designating May 1989 as "National Stroke Awareness Month".

Whereas stroke is the third leading cause of death in the United States;

Whereas stroke is the leading cause of adult disability in the United States;

Whereas stroke is a distinct disease of the brain and nervous system, causing paralysis and speech, perceptual, emotional, and cognitive impairment;

Whereas there is insufficient public knowledge of stroke prevention, treatment, and rehabilitation;

Whereas between five hundred thousand and six hundred thousand Americans are affected by a stroke each year;

Whereas between two million and three million American stroke survivors have not fully regained their physical and mental abilities and remain significantly disabled;

Whereas stroke is a sudden catastrophe that devastates families and routinely robs survivors and family caregivers of the most rewarding years of their lives;

Whereas stroke costs the United States between $12 and $13 billion annually in medical treatment, rehabilitation, and lost potential economic output;

Whereas the National Stroke Association's mission is to provide the means to reduce the incidence and effects of stroke through public and professional education, community service and research; and

Whereas increased national awareness of stroke may stimulate greater interest, concern, and participation by the American people and may lead to increased research and to reducing the overall impact of stroke in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "National Stroke Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved May 11, 1989.

LEGISLATIVE HISTORY—S.J. Res. 62:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 5, considered and passed Senate.
May 2, considered and passed House.

○

29-139 0 - 89 (27)

Public Law 101-28
101st Congress

An Act

To delay the effective date of section 27 of the Office of Federal Procurement Policy Act.

May 15, 1989
[S. 968]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DELAY OF EFFECTIVE DATE.

Section 6(b) of the Office of Federal Procurement Policy Act Amendments of 1988 (Public Law 100-679; 102 Stat. 4068) is amended by striking out "180 days after the date of the enactment of this Act" and inserting in lieu thereof "July 16, 1989". 41 USC 423 note.

Approved May 15, 1989.

LEGISLATIVE HISTORY—S. 968:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 12, considered and passed Senate.
May 15, considered and passed House.

○

Public Law 101-29
101st Congress

Joint Resolution

May 17, 1989
[S.J. Res. 37]

Designating the week beginning May 14, 1989, and the week beginning May 13, 1990, as "National Osteoporosis Prevention Week".

Whereas osteoporosis, a degenerative bone condition, afflicts 25,000,000 people in the United States;

Whereas osteoporosis afflicts 90 percent of women over age 75;

Whereas 50 percent of all women in the United States over age 45 will develop some form of osteoporosis;

Whereas hip fractures are the most disabling outcome of osteoporosis, and 32 percent of women and 17 percent of men who live to age 90 will likely suffer a hip fracture due primarily to osteoporosis;

Whereas the mortality rates for people who suffer a hip fracture increase by 20 percent, with such fractures resulting in the death of over 50,000 older women and many older men each year;

Whereas 15 to 25 percent of people who suffer a hip fracture stay in a long-term care facility for at least one year after the fracture occurs, and 25 to 35 percent of people who return home from a long-term care facility after recovering from a hip fracture require assistance with daily living after returning home;

Whereas the total cost to society of dealing with osteoporosis was over $10,000,000,000 in 1988 and such cost is expected to rise as the population ages;

Whereas osteoporosis is associated with the loss of bone mass due to a lack of estrogen as a result of menopause, alcohol or cigarette use, and low calcium intake;

Whereas exercise and proper nutrition before an individual is age 35 will build bone mass to help prevent osteoporosis; and

Whereas people who suffer from osteoporosis should be aware of the increased risk of bone fractures, and should take precautions to reduce the chance of accidents that may result in bone fractures due primarily to osteoporosis: Now, therefore, be it

PUBLIC LAW 101-30—MAY 17, 1989

MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION EXTENSION ACT

29-139 O - 89 - (30)

Public Law 101-30
101st Congress

An Act

May 17, 1989
[H.R. 1385]

To make permanent the Martin Luther King, Jr., Federal Holiday Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Martin Luther King, Jr., Federal Holiday Commission Extension Act.
36 USC 169j note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Martin Luther King, Jr., Federal Holiday Commission Extension Act".

SEC. 2. REMOVAL OF TERMINATION.

36 USC 169j-8.

(a) Removal.—Section 9 of Public Law 98-399 (98 Stat. 1475) is amended to read as follows:

"Sec. 9. The Commission shall continue in existence until April 20, 1994.".

(b) Conforming Amendments.—

36 USC 169j.

(1) Findings.—Paragraph (3) of the first section of Public Law 98-399 (98 Stat. 1473) is amended by striking "first".

36 USC 169j-2.

(2) Purposes.—Section 3(1) of Public Law 98-399 (98 Stat. 1473) is amended by striking "first occurs on January 20, 1986" and inserting "occurs on the third Monday in January each year".

36 USC 169j-8 note.

(c) Reestablishment After Termination.—If the date of the enactment of this Act occurs on or after April 20, 1989, the Martin Luther King, Jr., Federal Holiday Commission shall be reestablished on the date of the enactment of this Act with the same members and powers that the Commission had, as provided in Public Law 98-399 (98 Stat. 1473), on April 19, 1989 (subject to this Act and the amendments made by this Act).

SEC. 3. MEMBERSHIP.

36 USC 169j-3.

(a) Terms in General.—Section 4(c) of Public Law 98-399 (98 Stat. 1474) is amended to read as follows:

"(c)(1) Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed not later than June 1 of each year for terms of 1 year, and any vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any vacancy in the Commission shall not affect its powers.

Coretta Scott King.

"(2) Coretta Scott King shall serve as a member for life. In the event of a vacancy, her position on the Commission shall be filled by a member of the family surviving Martin Luther King, Jr., not already a member of the Commission, who shall be appointed by the family and shall serve as a member of the Commission at the discretion of the family.

"(3) The 2 members of the Commission appointed as members of the family surviving Martin Luther King, Jr., shall serve as members of the Commission at the discretion of the family.".

36 USC 169j-3 note.

(b) Continuation of Terms of Existing Members.—The individuals who are members of the Commission on the date of the enactment of this Act shall be considered to have been appointed members for a term ending on the first June 1 that occurs after the date of the enactment of this Act (pursuant to section 4(a) of Public Law 98-399 (98 Stat. 1473) or section 2(c) of this Act, as appropriate).

SEC. 4. RESTRICTIONS ON ACTIVITIES OF THE COMMISSION.

Section 6 of Public Law 98-399 (98 Stat. 1474) is amended by adding at the end thereof the following new subsection: 36 USC 169j-5.

"(c) In carrying out the responsibilities of the Commission under this Act, the Commission shall not make any expenditures, or receive or utilize any assistance in the form of the use of office space, personnel, or any other assistance authorized under subsection (b), for any of the following purposes—

"(A) training activities for the purpose of directing or encouraging—

"(i) the organization or implementation of campaigns to protest social conditions, and

"(ii) any form of civil disobedience.".

SEC. 5. REPORTS.

Section 8 of Public Law 98-399 (98 Stat. 1475) is amended by striking the period at the end and inserting the following: "with respect to the most recent observance of the Federal legal holiday honoring the birthday of Martin Luther King, Jr.". 36 USC 169j-7.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Section 7 of Public Law 98-399 (98 Stat. 1474) is amended to read as follows: 36 USC 169j-6.

"Sec. 7. There are authorized to be appropriated to carry out this Act $300,000 for fiscal year 1989 and each of the 4 succeeding fiscal years.".

(b) Conforming Amendments.—

(1) Expenses of members.—Section 4(d) of Public Law 98-399 (98 Stat. 1474) is amended by striking "subject to section 7" and inserting "subject to the availability of sufficient funds". 36 USC 169j-3.

(2) Pay for staff.—Section 6(a) of Public Law 98-399 (98 Stat. 1474) is amended by striking "Subject to section 7" and inserting "Subject to the availability of sufficient funds". 36 USC 169j-5.

SEC. 7. REPEALER.

Section 5(c) of Public Law 98-399 (98 Stat. 1474) is repealed. 36 USC 169j-4.

SEC. 8. BRONZE REPLICA OF DECLARATION OF INDEPENDENCE.

(a) The Congress finds that:

(1) The ideas expressed in the Declaration of Independence have inspired freedom-loving people throughout the world.

(2) The eloquent language of the Declaration of Independence has stirred the hearts of the American people.

(3) The Declaration of Independence ranks as one of the greatest documents in human history.

(4) On July 2, 1952, a bronze replica of the Declaration of Independence was presented to Congress for display in the Rotunda of the United States Capitol.

(5) On July 22, 1988, the bronze replica of the Declaration of Independence was moved from the Rotunda of the Capitol to the small House Rotunda between the Capitol Rotunda and Statuary Hall.

(6) The bronze replica of the Declaration of Independence was replaced in the Rotunda by a bust of Martin Luther King, Jr.

(b) It is the sense of the Congress that the bronze replica of the Declaration of Independence should, forthwith, be returned to a place of prominence in the Rotunda of the United States Capitol where it shall remain on permanent display.

Approved May 17, 1989.

LEGISLATIVE HISTORY—H.R. 1385 (S. 431):

HOUSE REPORTS: No. 101-26 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Apr. 17, considered and passed House.
  May 1, S. 431 considered in Senate.
  May 2, H.R. 1385 considered and passed Senate, amended, in lieu of S. 431.
  May 9, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  May 17, Presidential remarks.

○

Public Law 101-31
101st Congress

Joint Resolution

To designate the week beginning May 7, 1989, as "National Correctional Officers Week".

May 22, 1989
[H.J. Res. 135]

Whereas American correctional officers who work in our jails and prisons are currently responsible for the containment and control of over six hundred thousand prisoners;

Whereas correctional officers must protect inmates from violence while encouraging them to develop skills and attitudes that can help them become productive members of society following their release;

Whereas the morale of correctional officers is affected by many factors, and the public perception of the role of correctional officers is more often based upon dramatization rather than factual review;

Whereas good job performance requires correctional officers to absorb the adverse attitudes present in confinement while maintaining themselves as professionals in order to have their actions appreciated and accepted by the public at large;

Whereas correctional officers had been similarly honored by many States and localities;

Whereas correctional officers had been similarly honored by a joint resolution of the Senate and House of Representatives of the United States in Congress assembled in 1984, 1985, and 1987; and

Whereas the attitude and morale of correctional officers is a matter worthy of serious congressional attention: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing May 7, 1989, hereby is designated "National Correctional Officers Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 22, 1989.

LEGISLATIVE HISTORY—H.J. Res. 135:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 2, considered and passed House.
May 9, considered and passed Senate.

○

Public Law 101-32
101st Congress

Joint Resolution

May 22, 1989
[S.J. Res. 58]

To designate May 17, 1989, as "High School Reserve Officer Training Corps Recognition Day".

Whereas in 1916 the Congress authorized the establishment of high school divisions of the Reserve Officer Training Corps;

Whereas hundreds of high schools across the United States, and United States operated high schools abroad, offer High School Reserve Officer Training Corps programs of the various military services;

Whereas High School Reserve Officer Training Corps programs have provided a valuable and unique learning opportunity for hundreds of thousands of high school students for almost four generations;

Whereas the programs of instruction for High School Reserve Officer Training Corps units concentrate on the development of desirable traits in its participants, such as good citizenship, leadership, teamwork, individual initiative, and pride and respect for the United States, its flag, laws, and Constitution;

Whereas the High School Reserve Officer Training Corps programs, being highly successful in developing desirable traits in its participants, have made a valuable contribution to the United States and to the education of the youth of our Nation;

Whereas it is appropriate to acknowledge and honor the contribution of the High School Reserve Officer Training Corps, and its cadets and instructors, both past and present; and

Whereas May 17, 1989, marks the seventy-third anniversary of the authorization of the High School Reserve Officer Training Corps: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 17, 1989, is hereby designated as "High School Reserve Officer Training Corps Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 22, 1989.

LEGISLATIVE HISTORY—S.J. Res. 58:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
May 16, considered and passed House.

○

Public Law 101-33
101st Congress

Joint Resolution

To designate the month of May 1989, as "Trauma Awareness Month".

May 23, 1989
[S.J. Res. 68]

Whereas more than eight million individuals in the United States suffer traumatic injury each year;

Whereas traumatic injury is the leading cause of death of individuals of less than forty years of age in the United States;

Whereas every individual is a potential victim of traumatic injury;

Whereas traumatic injury can occur without warning;

Whereas traumatic injury frequently renders its victims incapable of caring for themselves;

Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;

Whereas the people of the United States spend more than $110,000,000,000 annually on the problem of trauma;

Whereas the problem of trauma can be remedied only by prevention and proper treatment through emergency medical services and trauma systems; and

Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical services and trauma systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "National Trauma Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved May 23, 1989.

LEGISLATIVE HISTORY—S.J. Res. 68:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 16, considered and passed Senate.
May 9, considered and passed House.

○

Public Law 101-34
101st Congress

Joint Resolution

May 25, 1989
[H.J. Res. 170]

Designating May 1989, as "National Digestive Disease Awareness Month".

Whereas digestive diseases rank third among illnesses in total economic cost in the United States;

Whereas digestive diseases represent one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditures for treatment, working hours lost, and mortality;

Whereas twenty million Americans suffer from chronic digestive diseases;

Whereas more than fourteen million cases of acute digestive diseases are treated in this country each year, including one-third of all malignancies and some of the most common acute infections;

Whereas more Americans are hospitalized with digestive diseases than any other type of disease;

Whereas digestive diseases necessitate 25 per centum of all surgical operations;

Whereas digestive diseases are one of the most prevalent causes of disability in the work force;

Whereas in the United States digestive diseases cause yearly expenditures of over $17 billion in direct health care costs and a total annual economic burden of nearly $50 billion;

Whereas more than one hundred different digestive diseases, and other disorders of the gastrointestinal tract, each cause more than two hundred thousand deaths each year;

Whereas there has been interest on the part of the research community in the causes, cures, prevention, and clinical treatment of digestive diseases and related nutritional problems;

Whereas the people of the United States should recognize prevention and treatment of digestive diseases as a major health priority;

Whereas national organizations, such as the Digestive Disease National Coalition, are committed to increasing awareness and understanding of digestive diseases in the health care community and among members of the general public;

Whereas the National Institutes of Health, through the National Digestive Disease Information Clearinghouse and the National Digestive Diseases Advisory Board, is committed to encouraging and coordinating such educational efforts;

29-139 0 - 89 (34)

Whereas the National Digestive Disease Education Program is a coordinated effort to educate the public and the health care community on the seriousness of digestive diseases and to provide information relative to the treatment, prevention, and control of digestive diseases; and

Whereas May 1989 marks the seventh anniversary of the National Digestive Disease Education Program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "National Digestive Disease Awareness Month", and the President is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved May 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 170:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 9, considered and passed House.
May 16, considered and passed Senate.

○

Public Law 101-35
101st Congress

Joint Resolution

May 25, 1989
[H.J. Res. 247]

Designating May 29, 1989, as the "National Day of Remembrance for the Victims of the USS IOWA".

Whereas the USS Iowa, a battleship in the Navy on maneuvers in the Atlantic Ocean, on April 19, 1989, suffered a tragic explosion in its second forward gun turret;

Whereas the explosion killed 47 heroic crewmembers of the USS Iowa;

Whereas the people of the United States are filled with sorrow because of the explosion and extend to the families of the victims their utmost sympathy; and

Whereas Memorial Day is observed on May 29, 1989, and honors those who have died while serving in the Armed Forces: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 29, 1989, is designated as the "National Day of Remembrance for the Victims of the USS IOWA", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 247:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 9, considered and passed House.
May 11, considered and passed Senate.

○

Public Law 101-36
101st Congress

Joint Resolution

Authorizing a first strike ceremony at the United States Capitol for the Bicentennial of the Congress Commemorative Coin.

June 9, 1989
[S.J. Res. 128]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF A FIRST STRIKE CEREMONY AT THE UNITED STATES CAPITOL FOR THE BICENTENNIAL OF THE CONGRESS COMMEMORATIVE COIN.

31 USC 5112 note.

(a) On June 14, 1989, or any other date that the President pro tempore of the Senate and the Speaker of the House of Representatives jointly designate, a first strike ceremony may be conducted at the United States Capitol and on the Capitol Grounds to strike coins authorized by the Bicentennial of the United States Congress Commemorative Coin Act (Public Law 100-673).

(b) All activities of and preparations for the ceremony authorized by subsection (a), including the striking and distribution of coins, shall be jointly coordinated with the Commissions on the Bicentennials of the United States Senate and the United States House of Representatives and the Secretary of the Treasury.

(c) Notwithstanding the Bicentennial of the United States Congress Commemorative Coin Act or any other provision of law, the United States Mint may strike coins authorized by the Bicentennial of the United States Congress Commemorative Coin Act in Washington, District of Columbia, during first strike ceremonies conducted as authorized by subsection (a). Such coins shall bear the mint mark of the mint facility which is designated to strike the coins.

SEC. 2. RESPONSIBILITY OF CONGRESSIONAL OFFICERS AND PHYSICAL PREPARATIONS.

31 USC 5112 note.

(a) Under the direction of the President pro tempore of the Senate and the Speaker of the House, the Secretary of the Senate, the Clerk of the House, the Architect of the Capitol, and the Capitol Police Board shall take any action necessary to carry out section 1.

(b) The Architect of the Capitol may prescribe conditions for physical preparations for the ceremony authorized in section 1.

Approved June 9, 1989.

LEGISLATIVE HISTORY—S.J. Res. 128:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 10, considered and passed Senate.
May 23, considered and passed House.

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PUBLIC LAW 101-37—JUNE 15, 1989

BUSINESS OPPORTUNITY DEVELOPMENT REFORM ACT TECHNICAL CORRECTIONS ACT

29-139 O - 89 (37)

Public Law 101-37
101st Congress

An Act

June 15, 1989
[S. 767]

To make technical corrections to the Business Opportunity Development Reform Act of 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Business Opportunity Development Reform Act Technical Corrections Act.
15 USC 631 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Opportunity Development Reform Act Technical Corrections Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of the Business Opportunity Development Reform Act of 1988 (hereinafter referred to as "the Act") is amended—

(1) in item 713, by striking "Procurements" and inserting "Procurement"; and

(2) in item 722, by striking "participating" and inserting "participation".

SEC. 3. DEFINITIONS.

15 USC 636 note.

Section 2 of the Act is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) the term 'Business Opportunity Specialist' means the Administration employee responsible for providing business development assistance to Program Participants pursuant to sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a));"; and

(3) in paragraph (6), as redesignated—

(A) by striking "Small Business" and inserting "Minority Small Business", and

(B) by inserting before the semicolon the following: ", unless otherwise indicated".

SEC. 4. PROGRAM ELIGIBILITY.

Section 7(j)(11) of the Small Business Act (15 U.S.C. 636(j)(11)) is amended—

(1) by striking subparagraph (B) and inserting the following:

"(B)(i) Except as provided in clause (iii), no individual who was determined pursuant to section 8(a) to be socially and economically disadvantaged before the effective date of this subparagraph shall be permitted to assert such disadvantage with respect to any other concern making application for certification after such effective date.

"(ii) Except as provided in clause (iii), any individual upon whom eligibility is based pursuant to section 8(a)(4) shall be permitted to assert such eligibility for only one small business concern.

"(iii) A socially and economically disadvantaged Indian tribe may own more than one small business concern eligible for assistance pursuant to section 7(j)(10) and section 8(a) if— Indians.

"(I) the Indian tribe does not own another firm in the same industry which has been determined to be eligible to receive contracts under this program, and

"(II) the individuals responsible for the management and daily operations of the concern do not manage more than two Program Participants.";

(2) in the first sentence of subparagraph (E), by striking "Office of the Associate Administrator for Minority Small Business" and inserting "Office of Minority Small Business";

(3) in the second sentence of subparagraph (E), by striking "such Associate Administrator" and inserting "the Associate Administrator for Minority Small Business and Capital Ownership Development";

(4) in subparagraph (F)(v), by striking "with the Associate Administrator" and inserting "to the Associate Administrator";

(5) in subparagraph (F), by striking clause (vi) and inserting:

"(vi) make recommendations to the Associate Administrator for Minority Small Business and Capital Ownership Development concerning protests from applicants that have been denied program admission;";

(6) in subparagraph (F)(viii), by striking "subparagraph (H)" and inserting "subparagraph (I)";

(7) in subparagraph (G)(ii), by striking "participants" and inserting "Participants";

(8) by redesignating subparagraph (H) as subparagraph (I); and

(9) by inserting after subparagraph (G) the following:

"(H) Not later than 90 days after receipt of a completed application for Program certification, the Associate Administrator for Minority Small Business and Capital Ownership Development shall certify a small business concern as a Program Participant or shall deny such application.".

SEC. 5. BUSINESS PLANS.

(a) In General.—Section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) is amended by striking "which sets forth" and inserting "which set forth".

(b) Contents of Plan.—Section 7(j)(10)(D) of the Small Business Act (15 U.S.C. 636(j)(10)(D)) is amended—

(1) in the first sentence of clause (i), by striking "business opportunity specialist" and inserting "Business Opportunity Specialist";

(2) in clause (ii)(II), by striking "small business concerns" and inserting "the small business concern";

(3) in clause (iii), by inserting before the end period the following: "relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a)";

(4) in clause (iv), by striking "contact awards" and inserting "contract awards"; and

(5) in clause (iv)(I), by inserting before the second comma the following: "relating to attaining business activity from sources other than contracts awarded pursuant to section 8(a)".

SEC. 6. ELIGIBILITY REVIEWS AND ELIGIBILITY OF NATIVE HAWAIIANS.

(a) ELIGIBILITY REVIEW.—Section 7(j)(10)(J)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(J)(i)) is amended by striking "suspended or terminated" and inserting "suspended".

(b) ELIGIBILITY OF NATIVE HAWAIIANS.—Section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)) is amended by striking "organizations" and inserting "Organization".

15 USC 631. (c) Section 207(b) of the Act is amended by striking "(15 U.S.C. 631(e)(2)(C))" and inserting "(15 U.S.C. 631(e)(1)(C))".

(d) DEFINITION OF "SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN".—Section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is amended—

(1) in clause (i), by inserting "unconditionally" after "per centum"; and

(2) in clause (ii), by inserting "unconditionally" before "owned by".

SEC. 7. TERMINATION AND GRADUATION STANDARDS.

(a) IN GENERAL.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended—

(1) by striking subparagraph (E)(ii) and inserting:

"(ii) completes the period of Program participation as prescribed by paragraph (15);";

(2) by striking the first subparagraph (F); and

(3) in subparagraph (F), by striking the first sentence and inserting the following: "For purposes of this section and section 8(a), the term 'terminated' and the term 'termination' means the total denial or suspension of assistance under this paragraph or under section 8(a) prior to the graduation of the participating small business concern or prior to the expiration of the maximum program participation term.".

(b) ECONOMIC DISADVANTAGE.—Section 8(a)(6)(C)(iii) of the Small Business Act (15 U.S.C. 637(a)(6)(C)(iii)) is amended by striking out "section 7(j)(10)(H)" and inserting "section 7(j)(10)(G)".

SEC. 8. STAGES OF PROGRAM PARTICIPATION.

(a) IN GENERAL.—Section 7(j)(12) of the Small Business Act (15 U.S.C. 636(j)(12)) is amended—

(1) in subparagraph (A), by striking "development" and inserting "developmental"; and

(2) in subparagraph (B), by inserting "in its effort" after "to assist the concern".

(b) DEVELOPMENTAL STAGE.—Section 7(j)(13)(E) of the Small Business Act (15 U.S.C. 636(j)(13)(E)) is amended by striking the second sentence and inserting the following: "Such assistance may be made without regard to section 18(a). Assistance may be made by direct payment to the training provider or by reimbursing the Program Participant or the Participant's employee, if such reimbursement is found to be reasonable and appropriate.".

SEC. 9. LOANS.

Section 7(a)(20) of the Small Business Act (15 U.S.C. 636(a)(20)) is amended in subparagraph (C)(iv), by inserting "is" before "amortized".

SEC. 10. CONTRACTUAL ASSISTANCE.

(a) CITATION.—Section 303(a) of the Act is amended by striking "15 U.S.C. 363(j)(10)" and inserting "15 U.S.C. 636(j)(10)". 15 USC 636.

(b) COMPETITIVE BUSINESS MIX.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended by striking "(i) During the developmental stage" and inserting "(I)(i) During the developmental stage".

(c) COMPETITIVE THRESHOLDS.—Section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) is amended by striking "program participants" and inserting "Program Participants".

(d) OPTIONS.—Section 303(f)(2) of the Act is amended by inserting "active" before "contracts previously awarded". 15 USC 637 note.

(e) NON-MANUFACTURER RULE.—Section 8(a)(17)(B) of the Small Business Act (15 U.S.C. 637(a)(17)(B)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and

(2) by inserting after clause (i) the following:

"(ii) be a small business concern under the numerical size standard for the Standard Industrial Classification Code assigned to the contract solicitation on which the offer is being made;".

SEC. 11. STATUS OF THE ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT.

(a) IN GENERAL.—Section 401(a) of the Act is amended by striking "In Section" and inserting "Section". 15 USC 633.

(b) CAREER POSITION.—Section 401(b) of the Act is amended by striking "of the Act" and inserting "of the Small Business Act". 15 USC 633 note.

SEC. 12. PROHIBITED ACTIONS AND EMPLOYEE RESPONSIBILITIES.

Section 8(a)(18)(A) of the Small Business Act (15 U.S.C. 637(a)(18)(A)) is amended by striking "certified".

SEC. 13. POLITICALLY MOTIVATED ACTIVITIES.

Section 8(a)(19)(B) of the Small Business Act (15 U.S.C. 637(a)(19)(B)) is amended by striking ", imposed by the Administrator,".

SEC. 14. REPORTS BY PROGRAM PARTICIPANTS.

Section 8(a)(20)(A) of the Small Business Act (15 U.S.C. 637(a)(20)(A)) is amended by striking "business opportunity specialist" and inserting "Business Opportunity Specialist".

SEC. 15. CONGRESSIONALLY REQUESTED INVESTIGATIONS.

Section 10(e)(2) of the Small Business Act (15 U.S.C. 639(e)(2)) is amended by striking "of the disposition of the matter" and inserting ", of the disposition of the request".

SEC. 16. CONTRACT PERFORMANCE.

Section 8(a)(21) of the Small Business Act (15 U.S.C. 637(a)(21)) is amended—

(1) in subparagraph (B), by striking "The Administrator may, as a matter of discretion and on a nondelegable basis, waive the

requirements of subparagraph (A) if requested to do so prior to the actual relinquishment of ownership or control. In addition to the requirement of the preceding sentence, a waiver may be given only if any of the following conditions exist:" and inserting the following: "The Administrator may, on a nondelegable basis, waive the requirements of subparagraph (A) only if one of the following conditions exist:"; and

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following:

"(C) The Administrator may waive the requirements of subparagraph (A) if—

"(i) in the case of subparagraph (B) (i), (ii) and (iv), he is requested to do so prior to the actual relinquishment of ownership or control; and

"(ii) in the case of subparagraph (B)(iii), he is requested to do so as soon as possible after the incapacity or death occurs.".

SEC. 17. DUE PROCESS RIGHTS.

Section 8(a)(9) of the Small Business Act (15 U.S.C. 637(a)(9)) is amended—

(1) in subparagraph (A), by striking "Administrator" and inserting "Administration";

(2) in subparagraph (B)(iii), by striking "section 7(j)(10)(H)" and inserting "section 7(j)(10)(G)"; and

(3) in subparagraph (C), by striking "Administrator's" and inserting "Administration's".

SEC. 18. EMPLOYEE TRAINING AND EVALUATION.

15 USC 636 note.

Section 410 of the Act is amended—

(1) in subsection (a), by striking "Training Requirements for Business Specialists" and inserting "Training Requirements for Business Opportunity Specialists"; and

(2) in subsection (c)(2), by striking "subsection (a)" and inserting "subsection (b)".

SEC. 19. PRESIDENTIAL REPORT ON CONTRACTING GOALS.

Section 15(h)(2)(A) of the Small Business Act (15 U.S.C. 644(h)(2)(A)) is amended by inserting "individuals" after "economically disadvantaged".

SEC. 20. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

15 USC 636 note.

Section 505 of the Act is amended—

(1) in subsection (b)(1)(B)(ii), by striking "program participants" each place it appears and inserting "Program Participants";

(2) in subsection (b)(1)(C), by striking "subparagraph (B)" and inserting "subparagraph (A)";

(3) in subsection (b)(2)(C), by striking "each such subparagraph" and inserting "paragraph (1)";

(4) in subsection (c)(3), by striking "such subparagraphs" and inserting "subparagraphs (B), (C), and (D)";

(5) in subsection (c)(6)(B), by striking "paragraph 2" and inserting "subsection (b)(2)";

(6) in subsection (d)(1)(B), by striking "531(b)" and inserting "5311(b)";

(7) by adding at the end of subsection (d) the following:

"(C) To facilitate the expeditious initiation of the Commission's activities, the Administrator of the Small Business Administration shall designate an Executive Secretary and provide such additional interim staff and support services as the Administrator deems appropriate until the time of the Commission's organizational meeting and the designation of its Executive Director, or such longer time as may be agreed upon by the Administrator and the Chairperson of the Commission.";

(8) in subsection (f), by striking "cease to exist on" and inserting "cease to exist within 90 days after"; and

(9) in subsection (g), by striking "authorized in the section" and inserting "authorized in this section".

SEC. 21. RELATIONSHIP WITH OTHER PROCUREMENT PROGRAMS.

Section 15(m)(1)(A) of the Small Business Act (15 U.S.C. 644(m)(1)(A)) is amended by striking "procedure" and inserting "procedures".

SEC. 22. INDIAN TRIBE EXEMPTIONS.

15 USC 637 note.

Section 602 of the Act is amended—

(1) in subsection (a), by striking "Section 8(a)(16) of the Small Business Act" and inserting "Section 8(a)(1)(D) of the Small Business Act,";

(2) in subsection (b)(2)(B), by inserting after "reservation" "or former reservation of such tribe as determined by the Secretary of the Interior";

(3) in subsection (b)(2)(C), by inserting ", or such former reservation" before the semicolon; and

(4) by striking subsection (d) and redesignating subsection (e) as subsection (d).

SEC. 23. SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

15 USC 644 note.

Section 711(a) of the Act is amended by inserting "in this title" after "referred to".

SEC. 24. ENHANCED SMALL BUSINESS PARTICIPATION GOALS.

15 USC 644 note.

Section 712(b)(1) of the Act is amended by striking "section 718" and inserting "section 717".

SEC. 25. PROCUREMENT PROCEDURES AND REPORTING.

15 USC 644 note.

(a) Procurement Procedures.—Section 713(a) of the Act is amended by striking "$25,000 or more" and inserting "more than $25,000".

(b) Reporting.—Section 714(c)(2) of the Act is amended by striking "section 712(d)" and inserting "section 712(c)".

SEC. 26. DESIGNATED INDUSTRY GROUPS.

15 USC 644 note.

Section 717(b)(2) of the Act is amended to read as follows:

"(2) Major Group 16 (Heavy Construction Other Than Building Construction—Contractors) (excluding dredging);".

SEC. 27. DEFINITION OF PARTICIPATING AGENCY.

15 USC 644 note.

Section 718(c) of the Act is amended—

(1) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) the Department of the Interior,"; and

(2) in paragraph (8), as redesignated, by inserting "with" before "the Public Building Service".

SEC. 28. ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES.

15 USC 644 note.

Section 721 of the Act is amended—

(1) by inserting "(10 U.S.C. 2301 note)" after "Fiscal Year 1987" in subsection (a)(2)(B); and

(2) by adding at the end thereof the following:

"(c) PROGRAM TERM.—The Program shall commence on January 1, 1989, and terminate on September 30, 1992.

"(d) REPORT.—The Secretary of Defense shall issue reports to the Congress on the operations of the program established pursuant to this section. Such reports shall detail the effects of the program on the mobilization base and on small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Interim reports shall be submitted every 6 months during the term of the program to the Committees on Armed Services and Small Business of the House of Representatives and the Senate.".

SEC. 29. EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.

15 USC 644 note.

Section 722 of the Act is amended—

(1) in subsection (a), by adding before the end period the following: "solicited on or after January 1, 1989";

(2) in subsection (d)(1)(B), by inserting "foster" before "joint ventures";

(3) in subsection (d)(1)(C), by inserting "foster" before "subcontracting through"; and

(4) in subsection (f), by inserting ", regarding compliance with this section" at the end of paragraph (1), and by striking paragraph (3).

SEC. 30. REGULATIONS.

15 USC 636 note.

Section 801(3) of the Act is amended by striking "two hundred and ten days" and inserting "270 days".

SEC. 31. AMENDMENTS TO EFFECTIVE DATES.

15 USC 631 note.

Section 803 of the Act is amended—

(1) in subsection (b)(3)(B), by striking "Sections 302 and" and inserting "Section";

(2) in subsection (b), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Section 302 shall take effect on June 1, 1989."; and

(3) in paragraph (1) of subsection (b), by striking "June 1, 1989" and inserting "August 15, 1989".

SEC. 32. EFFECTIVE DATES OF THIS ACT.

15 USC 631 note.

The amendments made by this Act shall apply as if included in the Business Opportunity Development Reform Act of 1988.

Approved June 15, 1989.

LEGISLATIVE HISTORY—S. 767 (H.R. 1764):

HOUSE REPORTS: No. 101-74 accompanying H.R. 1764 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 19, considered and passed Senate.
June 6, considered and passed House.

○

Public Law 101-38
101st Congress

Joint Resolution

June 19, 1989
[H.J. Res. 274]

To designate the week beginning June 11, 1989, as "National Scleroderma Awareness Week".

Whereas scleroderma is a disease in which connective tissue in the body becomes hardened and rigid, and might afflict any part of the body;

Whereas approximately 300,000 people in the United States suffer from scleroderma;

Whereas women are afflicted by scleroderma 3 times more often than men;

Whereas scleroderma is a chronic and often progressive illness that can result in death;

Whereas the symptoms of scleroderma vary greatly from person to person and can complicate and confuse diagnosis;

Whereas the cause and cure of scleroderma are unknown; and

Whereas scleroderma is an orphan disease and is considered to be under-studied: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 11, 1989, is designated as "National Scleroderma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved June 19, 1989.

LEGISLATIVE HISTORY—H.J. Res. 274:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 13, considered and passed House.
June 14, considered and passed Senate.

○

Public Law 101-39
101st Congress

Joint Resolution

Designating June 14, 1989, as "Baltic Freedom Day", and for other purposes.

June 19, 1989
[S.J. Res. 63]

Whereas the people of the republics of Lithuania, Latvia, and Estonia (hereinafter referred to as the "Baltic Republics") have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics existed as independent, sovereign nations and as fully recognized members of the League of Nations;

Whereas 1989 marks the 50th anniversary of the infamous Molotov-Ribbentrop Pact in which the Soviet Union colluded with Nazi Germany, thus allowing the Soviet Union in 1940 to illegally seize and occupy the Baltic Republics and to incorporate such republics by force into the Soviet Union against the national will and the desire for independence and freedom of the people of such republics;

Whereas due to Soviet and Nazi tyranny, by the end of World War II, 20 percent of the total population of the Baltic Republics had been lost;

Whereas the people of the Baltic Republics have individual and separate cultures and national traditions and languages which are distinctively foreign to those of Russia;

Whereas since 1940, the Soviet Union has systematically implemented Baltic genocide by deporting native Baltic peoples from Baltic homelands to forced labor and concentration camps in Siberia and elsewhere;

Whereas by relocating masses of Russians to the Baltic Republics, the Soviet Union has threatened the Baltic cultures with extinction through russification;

Whereas through a program of russification, the Soviet Union has introduced ecologically unsound industries without proper safeguards into the Baltic Republics, and the presence of such industries has resulted in deleterious effects on the environment and well-being of the Baltic people;

Whereas the Soviet Union, despite recent pronouncements of openness and restructuring, has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberty, and religious freedom;

Whereas the people of the Baltic Republics are subjugated by the Soviet Union, are locked into a union such people deplore, are denied basic human rights, and are persecuted for daring to protest;

Whereas the Soviet Union refuses to abide by the Helsinki accords which the Soviet Union voluntarily signed;

Whereas the United States stands as a champion of liberty, is dedicated to the principles of national self-determination, human rights, and religious freedom, and is opposed to oppression and imperialism;

Whereas the United States, as a member of the United Nations, had repeatedly voted with a majority of that international body to uphold the right of other countries of the world to self-determination and freedom from foreign domination;

Whereas the Soviet Union has steadfastly refused to return to the people of the Baltic Republics the right to exist as independent republics, separate and apart from the Soviet Union, or to permit a return of personal, political and religious freedoms; and

Whereas 1989 marks the 49th anniversary of the continued policy of the United States of not recognizing the illegal forcible occupation of the Baltic Republics by the Soviet Union: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress recognizes the continuing desire and right of the people of the Baltic Republics for freedom and independence from the domination of the Soviet Union;

(2) the Congress deplores the refusal of the Soviet Union to recognize the sovereignty of the Baltic Republics and to yield to the rightful demands for independence from foreign domination and oppression by the people of the Baltic Republics;

(3) June 14, 1989, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, is designated as "Baltic Freedom Day", as a symbol of the solidarity of the people of the United States with the aspirations of the enslaved Baltic people; and

(4) the President is authorized and requested—

(A) to issue a proclamation calling upon the people of the United States to observe Baltic Freedom Day with appropriate ceremonies and activities, and

(B) to call upon the Soviet Union, the Federal Republic of Germany, and the Democratic Republic of Germany to renounce the acquisition or absorption of the Baltic Republics by the Soviet Union as a result of the Molotov-Ribbentrop Pact.

Approved June 19, 1989.

LEGISLATIVE HISTORY—S.J. Res. 63:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Feb. 28, considered and passed Senate.
June 13, considered and passed House.

○

Public Law 101-40
101st Congress

An Act

To correct an error in Private Law 100-29 (relating to certain lands in Lamar County, Alabama) and to make technical corrections in certain other provisions of law.

June 20, 1989
[H.R. 964]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANDS IN LAMAR COUNTY, ALABAMA.

Section 1(b) of Private Law 100-29 is hereby amended by striking out "the northwest quarter southeast quarter of section 14" and by inserting in lieu thereof "the northwest quarter southwest quarter of section 14".

SEC. 2. TECHNICAL CORRECTIONS; WILD AND SCENIC RIVERS ACT.

(a) NUMBERING OF DESIGNATED RIVERS.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended as follows: 16 USC 1274.

(1) Number the unnumbered paragraph relating to the Merced River in California as "(62)".

(2) Redesignate paragraph (62) relating to the Kings River in California as paragraph "(63)".

(3) Number the unnumbered paragraph relating to the Kern River in California as "(64)".

(4) Number the unnumbered paragraph relating to the Bluestone River in West Virginia as "(65)".

(5) Number the unnumbered paragraph relating to the Sipsey River in Alabama as "(66)".

(6) Redesignate paragraph (65) relating to the Wildcat Brook in New Hampshire as paragraph "(67)".

(7) Number the unnumbered paragraphs relating to rivers in Oregon added to the national wild and scenic rivers system by the Omnibus Oregon Wild and Scenic Rivers Act of 1988 (Public Law 100-557) as follows: Big Marsh Creek, "(68)", the Chetco, "(69)", the Clackamas, "(70)", Crescent Creek, "(71)", the Crooked, "(72)", the Deschutes, "(73)", the Donner und Blitzen, "(74)", Eagle Creek, "(75)", the Elk, "(76)", the Grande Ronde, "(77)", the Imnaha, "(78)", the John Day, "(79)", Joseph Creek, "(80)", the Little Deschutes, "(81)", the Lostine, "(82)", Malheur, "(83)", McKenzie, "(84)", Metolius, "(85)", Minam, "(86)", North Fork Crooked, "(87)", North Fork, John Day, "(88)", North Fork Malheur, "(89)", North Fork of the Middle Fork of the Williamette, "(90)", North Fork Owyhee, "(91)", North Fork Smith, "(92)", North Fork, Sprague, "(93)", North Powder, "(94)", North Umpqua, "(95)", Powder, "(96)", Quartzville Creek, "(97)", Roaring, "(98)", Salmon, "(99)", Sandy, "(100)", South Fork John Day, "(101)", Squaw Creek, "(102)", Sycan, "(103)", Upper Rogue, "(104)", Wenaha, "(105)", West Little Owyhee, "(106)", and White, "(107)".

(8) Number the unnumbered paragraph relating to the Rio Chama in New Mexico as "(108)".

16 USC 1276.

(b) NUMBERING OF STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended as follows:

(1) Redesignate paragraph (96) relating to the Merced River in California as paragraph "(99)".

(2) Number the unnumbered paragraphs relating to rivers in Oregon designated by the Omnibus Oregon Wild and Scenic Rivers Act of 1988 (Public Law 100–557) for study for potential inclusion in the national wild and scenic rivers system as follows: Blue, "(100)", Chewaucan, "(101)", North Fork Malheur, "(102)", South Fork McKenzie, "(103)", Steamboat Creek, "(104)", and Wallowa, "(105)".

SEC. 3. MILITARY LANDS WITHDRAWAL ACT OF 1986.

100 Stat. 3459.

Section 2(c) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606) is amended by striking "the office of the commander, Barry M. Goldwater Air Force Base" and inserting "the office of the commander, Luke Air Force Base".

SEC. 4. TECHNICAL CORRECTIONS REGARDING THE MISSISSIPPI NATIONAL RIVER AND RECREATION AREA.

Title VII of Public Law 100–696 is amended as follows:

16 USC 460zz-4.

(1) In the third sentence of section 705(a), strike "Our" and insert "Other".

16 USC 460zz-2.

(2) In section 703(d), strike "to serve" and insert "and shall serve".

Approved June 20, 1989.

LEGISLATIVE HISTORY—H.R. 964:

HOUSE REPORTS: No. 101–20 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101–35 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 11, considered and passed House.
June 2, considered and passed Senate.

○

Public Law 101-41
101st Congress

An Act

To provide for the settlement of land claims, and the resolution of certain issues of governmental jurisdiction, of the Puyallup Tribe of Indians in the State of Washington, and for other purposes.

June 21, 1989
[H.R. 932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Puyallup Tribe of Indians Settlement Act of 1989.
25 USC 1773 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puyallup Tribe of Indians Settlement Act of 1989".

25 USC 1773 note.

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) Disputes over certain land claims of the Puyallup Tribe and other matters, including—

(A) ownership of the Commencement Bay tidelands and areas of former Puyallup Riverbed, lands within the Puyallup Tribe's Treaty Reservation, or intended reservation boundaries,

(B) railroad and other rights-of-way,

(C) control of fisheries resource and habitat,

(D) jurisdiction over law enforcement, environment, navigation, and authority and control in the areas of land use,

(E) business regulation and zoning,

have resulted in difficult community relations and negative economic impacts affecting both the Tribe and non-Indian parties.

(3) Some of the significant historical events that led to the present circumstances include—

(A) the negotiation of the Treaty of Medicine Creek in December 1854, by the Puyallup Indians and others, by which the tribes ceded most of their territories but reserved certain lands and rights, including fishing rights;

(B) the Executive Order of 1857 creating the Puyallup Indian Reservation;

(C) the Executive Order of 1873, clarifying and extending the Puyallup Reservation in the Washington Territory;

(D) the March 11, 1891, Report of the Puyallup Indian Commission on allotments and the 1896 report by a second Puyallup Indian Commission describing the problems with sales of allotted lands; and

(E) the 1909 District Court for Tacoma decision of the United States of America against J.M. Ashton and the 1910

Supreme Court decision of United States of America against J.M. Ashton.

(4) It is recognized that both Indian and non-Indian parties enter into this settlement to resolve certain problems and claims and to derive certain benefits.

(5) There is a recognition that any final resolution of pending disputes through a process of litigation would take many years and entail great expense to all parties; continue economically and socially damaging controversies; prolong uncertainty as to the access, ownership, and jurisdictional status of issues in question; and seriously impair long-term economic planning and development for all parties.

(6) To advance the goals of Federal policy of Indian self-determination and to carry out the trust responsibility of the United States, and to advance the Federal policy of international trade and economic development, and in recognition of the Federal policy of settling these conflicts through comprehensive settlement agreements, it is appropriate that the United States participate in the funding and implementation of the Settlement Agreement.

(b) Purpose.—Therefore, it is the purpose of this Act—

(1) to approve, ratify, and confirm the agreement entered into by the non-Indian settlement parties and the Puyallup Tribe of Indians,

(2) to authorize and direct the Secretary to implement the terms of such agreement, and

(3) to authorize the actions and appropriations necessary to implement the provisions of the Settlement Agreement and this Act.

25 USC 1773a.

SEC. 3. RESOLUTION OF PUYALLUP TRIBAL LAND CLAIMS.

(a) Relinquishment.—In accordance with the Settlement Agreement and in return for the land and other benefits derived from the Settlement Agreement and this Act, the Tribe, and the United States as trustee for the Tribe and its members, relinquish all claims to tidelands, submerged lands, and any other lands, and including any mineral claims and nonfisheries water rights connected with such relinquished land, known or unknown, within the State of Washington, subject to the exceptions referred to in subsection (b).

(b) Exception for Certain Lands.—Subsection (a) shall not apply to the following:

(1) 12.5 acres of former riverbed land confirmed to the Tribe in Puyallup Tribe of Indians against Port of Tacoma (717 F. 2d 1251 (1983)), which land shall be subject to the terms and conditions described in the Settlement Agreement and document 6 of the Technical Documents.

(2) All land to which record title in the Tribe or the United States in trust for the Tribe or its members derives from a patent issued by the United States or from a conveyance of tideland by the State of Washington. For the purposes of this paragraph, the term "record title" means title documented by identifiable conveyances reflected in those records imparting constructive notice of conveyances according to the laws of the State (RCW chapters 65.04 and 65.08) and the final judgments of State or Federal courts.

(3) Certain land recognized to be owned on August 27, 1988, by the Tribe or the United States in trust for the Tribe within the

Indian Addition to the city of Tacoma, Washington, as recorded in book 7 of plats at pages 30 and 31, records of Pierce County, Washington, as follows:

(A) Land owned on August 27, 1988:

(i) Portions of tracts 2, 5, 6, 10, and 11.

(ii) Tract 7 (school site).

(iii) Tract 8 (church site).

(iv) Tract 9 (cemetery site).

(v) Approximately 38 lots in blocks 8150, 8249, 8350, and 8442, inclusive.

(B) Land, wherever located, added to the above list of parcels on or before December 1, 1988, in accordance with paragraph A.3. of section IX of the Settlement Agreement.

(4) The lands transferred to the Tribe pursuant to the Settlement Agreement.

(5) The rights to underlying lands or the reversionary interest of the Tribe, if any, in the Union Pacific or Burlington Northern rights-of-way across the 1873 Survey Area, where the property over which they were granted belonged, at the time of the grant, to the United States in trust for the Tribe or to the Tribe.

(6) The submerged lands as of August 27, 1988, in the Puyallup River within the 1873 Survey Area below the mean high water line.

(c) Personal Claims.—Nothing in this section or in the Settlement Agreement shall be construed to impair, eliminate, or in any way affect the title of any individual Indian to land held by such individual in fee or in trust, nor shall it affect the personal claim of any individual Indian as to claims regarding past sales of allotted lands or any claim which is pursued under any law of general applicability that protects non-Indians as well as Indians.

SEC. 4. SETTLEMENT LANDS.

25 USC 1773b.

(a) Acceptance by Secretary.—The Secretary shall accept the conveyance of the lands described in subsection (c), and the Outer Hylebos tidelands property referred to in section VIII, A,1,c of the Settlement Agreement, subject to the terms and conditions of the Settlement Agreement and shall hold such lands in trust for the benefit of the Tribe.

(b) Contamination.—(1) Contamination audits and cleanup of settlement lands shall be carried out in accordance with the Settlement Agreement and document 1 of the Technical Documents.

(2) The Tribe shall not be liable for the cleanup costs or in any other manner for contamination on properties described in subsection (c) except any contamination caused by the Tribe's activities after conveyance of these properties to the Tribe under the terms of the Settlement Agreement and document 1 of the Technical Documents.

(c) Lands Described.—The lands referred to in subsection (a), and more particularly described in the Settlement Agreement, are as follows:

(1) The Blair Waterway property, comprised of approximately 43.4 acres.

(2) The Blair Backup property, comprised of approximately 85.2 acres.

(3) The Inner Hylebos property, comprised of approximately 72.9 acres.

(4) The Upper Hylebos property, comprised of approximately 5.9 acres.

(5) The Union Pacific property (Fife), comprised of a parcel of approximately 57 acres, and an adjoining 22-acre parcel if the option relating to the Union Pacific property (Fife) (as described in document 1 of the Technical Documents) is exercised.

(6) The Torre property (Fife), comprised of approximately 27.4 acres, unless the Port elects to provide the cash value of such property.

(7) The Taylor Way and East-West Road properties, two properties totaling approximately 7.4 acres.

(8) The submerged lands in the Puyallup River within the 1873 Survey Area below the mean high water line, as provided in section I. B. of the Settlement Agreement. To the extent that the United States has title to any of the lands described in this subpart, then such lands shall be held by the United States in trust for the use and benefit of the Puyallup Tribe.

(9) The approximately 600 acres of open space, forest, and cultural lands to be acquired by the Tribe with cash received pursuant to section I of the Settlement Agreement or other tribal funds.

(d) Reservation Status.—Nothing in this Act is intended to affect the boundaries of the Puyallup Reservation, except that the lands described in subsection (c) above in paragraphs (1) through (8), and the Outer Hylebos tidelands property referred to in section VIII of the Settlement Agreement, shall have on-reservation status.

(e) Authorization of Appropriations.—There is authorized to be appropriated $500,000 for the Federal share for the purchase of the lands referred to in subsection (c)(9).

25 USC 1773c.

SEC. 5. FUTURE TRUST LANDS.

In accepting lands in trust (other than those described in section 4) for the Puyallup Tribe or its members, the Secretary shall exercise the authority provided him in section 5 of the Act of June 18, 1934 (25 U.S.C. 465), and shall apply the standards set forth in part 151 of title 25, Code of Federal Regulations, as those standards now exist or as they may be amended in the future.

25 USC 1773d.

SEC. 6. FUNDS TO MEMBERS OF PUYALLUP TRIBE.

(a) Payment to Individual Members.—(1) To the extent provided in advance in appropriation Acts or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall place with a financial institution the amount of $24,000,000 in an annuity fund or other investment program (hereafter in this subsection referred to as the "fund"). The selection of the institution or institutions where the funds will be held and the administration of the funds shall be in accordance with section II of the Settlement Agreement and documents 2 and 3 of the Technical Documents. Amounts earned pursuant to any investment of the fund shall be added to, and become part of, the fund.

(2) Upon attaining the age of 21 years, each enrolled member of the Tribe (determined by the Tribe pursuant to its constitution to have been a member as of the date of ratification of the Settlement Agreement by the Tribe) shall receive a one-time payment from the fund. The amount of such payment shall be determined in accordance with section II of the Settlement Agreement and document 2 of the Technical Documents.

(3) A reasonable and customary fee for the administration of the fund may be paid out of the income earned by the fund to the financial institution with which the fund is established.

(4) Upon payment to all eligible members of the Tribe pursuant to paragraph (2), any amount remaining in the fund shall be utilized in the manner determined by a vote of the members of the Tribe.

(5) There is authorized to be appropriated $22,350,000 for the Federal share of the fund.

Appropriation authorization.

(b) PERMANENT TRUST FUND FOR TRIBAL MEMBERS.—(1) In order to provide a permanent resource to enhance the ability of the Tribe to provide services to its members, there is established the Puyallup Tribe of Indians Settlement Trust Fund (hereafter in this subsection referred to as the "trust fund").

(2) Upon appropriation by Congress or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall deposit $22,000,000 into the trust fund. The trust fund shall be invested in accordance with the Act of June 24, 1938 (25 U.S.C. 162a), so as to earn the maximum interest on principal and interest available under that Act. No part of the $22,000,000 principal may be expended for any purpose. Income earned on the principal or interest of the trust fund shall be available for expenditure as provided in paragraph (3).

(3)(A) The trust fund shall be administered and the funds shall be expended in accordance with section III of the Settlement Agreement and document 3 of the Technical Documents. Income from the trust fund may be used only for the following purposes unless modified in accordance with subparagraph (B):

(i) Housing.
(ii) Elderly needs.
(iii) Burial and cemetery maintenance.
(iv) Education and cultural preservation.
(v) Supplemental health care.
(vi) Day care.
(vii) Other social services.

(B) The purposes of the trust fund may be modified only as provided in document 3 of the Technical Documents.

(4) The fund established under this subsection shall be in perpetuity and inviolate.

(5) There is authorized to be appropriated $18,800,000 for the Federal share of the trust fund.

Appropriation authorization.

Appropriation authorization.
25 USC 1773e.

SEC. 7. FISHERIES.

In order to carry out the Federal part of the fisheries aspect of the Settlement Agreement, there is authorized to be appropriated $100,000 for navigation equipment at Commencement Bay to be used in accordance with section A of document 4 of the Technical Documents.

25 USC 1773f.

SEC. 8. ECONOMIC DEVELOPMENT AND LAND ACQUISITION.

(a) ECONOMIC DEVELOPMENT AND LAND ACQUISITION FUND.—To the extent provided in advance in appropriation Acts, the Secretary shall disburse $10,000,000 to the Tribe of which—

(1) $9,500,000 shall be available for the Tribe to carry out economic development consistent with section VI of the Settlement Agreement or to acquire lands; and

(2) $500,000 shall be available only to support and assist the development of business enterprises by members of the Tribe in a manner consistent with the Settlement Agreement.

Appropriation authorization.

There is authorized to be appropriated $10,000,000 to carry out this subsection.

(b) Foreign Trade.—The Congress recognizes the right of the Tribe to engage in foreign trade consistent with Federal law and notwithstanding article XII of the treaty with the Nisqually and other bands of Indians entered into on December 26, 1854, and accepted, ratified, and confirmed on March 3, 1855 (11 Stat. 1132).

Appropriation authorization.

(c) Blair Project.—There is authorized to be appropriated to the Secretary the amount of $25,500,000 for the Federal share of the costs associated with the Blair project, which shall be carried out in accordance with document 6 of the Technical Documents. For the purpose of this subsection, the Secretary shall transfer such amount to the Department of Transportation of the State of Washington. Such amount may only be used by the Department of Transportation of the State of Washington to carry out the Blair project in accordance with document 6 of the Technical Documents. Operation and maintenance of the Blair Waterway channel shall remain the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

25 USC 1773g.

SEC. 9. JURISDICTION.

The Tribe shall retain and exercise jurisdiction, and the United States and the State and political subdivisions thereof shall retain and exercise jurisdiction, as provided in the Settlement Agreement and Technical Documents and, where not provided therein, as otherwise provided by Federal law.

25 USC 1773h.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) Liens and Forfeitures, Etc.—(1) None of the funds, assets, or income from the trust fund established in section 6(b) which are received by the Tribe under the Settlement Agreement shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure.

(2) The annuity fund, or other investment program, established in section 6(a) shall not be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure. Payments from the fund shall be in accordance with the Act of August 2, 1983 (25 U.S.C. 117a et seq.; commonly referred to as the "Per Capita Act").

(b) Eligibility for Federal Programs; Trust Responsibility.—Nothing in this Act or the Settlement Agreement shall affect the eligibility of the Tribe or any of its members for any Federal program or the trust responsibility of the United States and its agencies to the Tribe and members of the Tribe.

(c) Permanent Trust Fund Not Counted for Certain Purposes.—None of the funds, assets, or income from the trust fund established in section 6(b) shall at any time be used as a basis for denying or reducing funds to the Tribe or its members under any Federal, State, or local program.

(d) Tax Treatment of Funds and Assets.—None of the funds or assets transferred to the Tribe or its members by the Settlement Agreement of this Act, and none of the interest earned or income received on amounts in the funds established under section 6 (a) and (b), shall be deemed to be taxable, nor shall such transfers be taxable events.

SEC. 11. ACTIONS BY THE SECRETARY.

25 USC 1773i.

The Secretary in administering this Act shall be aware of the trust responsibility of the United States to the Tribe and shall take such actions as may be necessary or appropriate to carry out this Act and the Settlement Agreement.

SEC. 12. DEFINITIONS.

25 USC 1773j.

For the purposes of this Act—

(1) the term "1873 Survey Area" means the area which is within the area demarked by the high water line as meandered and the upland boundaries, as shown on the plat map of the 1873 Survey of the Puyallup Indian Reservation, conducted by the United States General Land Office, and filed in 1874;

(2) the term "Secretary" means the Secretary of the Interior;

(3) the term "Settlement Agreement" means the document entitled "Agreement between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners", dated August 27, 1988;

(4) the term "State" means the State of Washington;

(5) the term "Technical Documents" means the 7 documents which comprise the technical appendix to the Settlement Agreement and are dated August 27, 1988;

(6) the term "Tribe" means the Puyallup Tribe of Indians, a tribe of Indians recognized by the United States;

(7) the term "below the mean high water line" in reference to the submerged lands of the Puyallup Riverbed means "below the ordinary high water mark" in that portion of the river not subject to tidal influence and "below the mean high water line" in that portion of the river which is subject to tidal influence; and

(8) the term "on-reservation status" means a status under which Federal laws and regulations, treaty rights, and rights of sovereignty, which define the rights and responsibilities on trust or restricted lands (including rights-of-way and easements running through such lands within a Federal Indian reservation) apply: *Provided*, That such application is not inconsistent with any provision of the Settlement Agreement.

25 USC 1773a note.

SEC. 13. EFFECTIVE DATE.

Sections 3 and 9 shall take effect on the effective date of the Settlement Agreement and when all terms are met as stated under section X of the Settlement Agreement.

Approved June 21, 1989.

LEGISLATIVE HISTORY—H.R. 932:

HOUSE REPORTS: No. 101-57 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
    May 23, considered and passed House.
    May 31, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
    June 21, Presidential statement.

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Public Law 101-42
101st Congress

An Act

To provide for restoration of the Federal trust relationship with, and assistance to, the Coquille Tribe of Indians and the individual members consisting of the Coquille Tribe of Indians, and for other purposes.

June 28, 1989
[H.R. 881]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coquille Restoration Act.
25 USC 715 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coquille Restoration Act".

SEC. 2. DEFINITIONS.

25 USC 715.

For the purposes of this Act—

(1) "Tribe" means the Coquille Indian Tribe consisting of the Upper Coquille and the Lower Coquille Tribes of Indians;

(2) "Secretary" means the Secretary of the Interior or his designated representative;

(3) "Interim Council" means the governing body of the Coquille Tribe which serves pursuant to section 8 of this Act;

(4) "Member" means those persons eligible for enrollment under section 7 of this Act and after the adoption of a tribal constitution, those persons added to the roll pursuant to such constitution;

(5) "service area" means the area composed of Coos, Curry, Douglas, Jackson, and Lane Counties in the State of Oregon;

(6) "State" means the State of Oregon; and

(7) "Reservation" means those lands subsequently acquired and held in trust by the Secretary for the benefit of the Tribe.

SEC. 3. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

25 USC 715a.

(a) Federal Recognition.—Notwithstanding any provision of law, Federal recognition is hereby extended to the Coquille Indian Tribe. Except as otherwise provided herein, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this Act shall be applicable to the Tribe and its Members.

(b) Restoration of Rights and Privileges.—Except as provided in subsection (d) of this section, all rights and privileges of this Tribe and of its Members under any Federal treaty, Executive order, agreement or statute or under any other authority, which were diminished or lost under the Act of August 13, 1954 (68 Stat. 724), are hereby restored and provisions of said Act shall be inapplicable to the Tribe and its Members after the date of enactment of this Act.

(c) Federal Services and Benefits.—Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its Members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized tribes residing on a reservation, Members of the Tribe in the Tribe's service area shall be deemed to be residing on a reservation. Notwithstanding any other provision of law, the Tribe shall be considered an Indian tribe for the purpose of the Indian Tribal Government Tax Status Act (26 U.S.C. 7871).

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this Act shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its Members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (48 Stat. 984), as amended, shall be applicable to the Tribe and its Members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

25 USC 715b.

SEC. 4. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for this Tribe;

(2) in accordance with this section and not later than two years after the adoption of a tribal constitution as provided in section 9, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

Real property.

(b) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 5 of this Act.

25 USC 715c.

SEC. 5. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Coos and Curry Counties not to exceed one thousand acres for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary: *Provided,* That, at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to his authority under the Act of June 18, 1934 (48 Stat. 984).

(b) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, the land transferred shall be taken in the name of the United States in trust for the Tribe and shall be part of its reservation.

(c) LANDS TO BE NONTAXABLE.—Any real property taken into trust for the benefit of the Tribe under this section shall be exempt from all local, State, and Federal taxation as of the date of transfer.

25 USC 715d.

SEC. 6. CRIMINAL AND CIVIL JURISDICTION.

The State shall exercise criminal and civil jurisdiction within the boundaries of the reservation, in accordance with section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code, respectively. Retrocession of such jurisdiction may be obtained pursuant to section 403 of the Act of April 11, 1968 (82 Stat. 77).

SEC. 7. MEMBERSHIP ROLLS.

25 USC 715e.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within one year of the enactment of this Act, the Secretary shall compile a roll of the Coquille Indian Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted, a person shall be placed on the membership roll if the individual is living, is not an enrolled member of another federally recognized tribe, is of Coquille ancestry, possesses at least one-eighth or more of Indian blood quantum and if—

(A) that individual's name was listed on the Coquille roll compiled and approved by the Bureau of Indian Affairs on August 29, 1960;

(B) that individual was not listed on but met the requirements that had to be met to be listed on the Coquille roll compiled and approved by the Bureau of Indian Affairs on August 29, 1960; or

(C) that individual is a lineal descendant of an individual, living or dead, identified by subparagraph (A) or (B).

(2) After adoption of a tribal constitution, said constitution shall govern membership in the Tribe: *Provided,* That in addition to meeting any other criteria imposed in such tribal constitution, any person added to the roll has to be of Coquille Indian ancestry and cannot be a member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF COQUILLE ANCESTRY AND DEGREE OF INDIAN BLOOD QUANTUM.—For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Coquille ancestry and the required amount of Indian blood quantum. However, the Secretary shall accept as conclusive evidence of Coquille ancestry information contained in the Coquille roll compiled by the Bureau of Indian Affairs on August 29, 1960, and as conclusive evidence of Indian blood quantum the information contained in the January 1, 1940, census roll of nonreservation Indians of the Grand Ronde-Siletz Agency.

SEC. 8. INTERIM GOVERNMENT.

25 USC 715f.

Until a new tribal constitution and bylaws are adopted and become effective under section 9 of this Act, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Coquille Tribe on the date of enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal bylaws adopted on April 23, 1979. Any new members filling vacancies on the Interim Council must meet the criteria for enrollment in section 7(b) of this Act and be elected in the same manner as are Tribal Council members under the April 23, 1979, bylaws.

SEC. 9. TRIBAL CONSTITUTION.

25 USC 715g.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution for the Tribe. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

(b) **Election of Tribal Officials; Procedures.**—Not later than one hundred and twenty days after the Tribe adopts a constitution and bylaws, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the tribal constitution. Said election shall be conducted according to the procedures stated in paragraph (a) of this section except to the extent that said procedures conflict with the tribal constitution.

Approved June 28, 1989.

LEGISLATIVE HISTORY—H.R. 881:

HOUSE REPORTS: No. 101-61 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-50 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
    May 23, considered and passed House.
    June 14, considered and passed Senate.

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Public Law 101-43
101st Congress

Joint Resolution

Designating June 23, 1989, as "United States Coast Guard Auxiliary Day".

June 28, 1989
[H.J. Res. 111]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 23, 1989, is designated as "United States Coast Guard Auxiliary Day", and the President is authorized and requested to issue a proclamation—

(1) commemorating the 50 years of service that service volunteers of the Coast Guard have given to enhance the safety of the people of the United States who enjoy water-related activities, and

(2) calling upon the people of the United States to observe such day in schools, Coast Guard units, boat clubs, and other suitable places with appropriate ceremonies, educational activities, and boating safety achievement programs.

Approved June 28, 1989.

LEGISLATIVE HISTORY—H.J. Res. 111 (S.J. Res. 155):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, S.J. Res. 155 considered and passed Senate. H.J. Res. 111 considered and passed House and Senate.

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Public Law 101-44
101st Congress

An Act

June 30, 1989
[H.R. 2344]

To authorize the transfer to the Republic of the Philippines of two excess naval vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO TRANSFER CERTAIN EXCESS NAVAL VESSELS TO THE PHILIPPINES.

(a) AUTHORITY TO TRANSFER WITHOUT CHARGE.—The Secretary of the Navy is authorized to transfer to the Republic of the Philippines without charge a floating drydock, the ex-AFDL-40, and a medium yard tug, the ex-YTM-776.

(b) APPLICABLE LAW.—Any transfer of a vessel under subsection (a) shall be in accordance with chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following), except that section 632(d) of that Act (22 U.S.C. 2392(d)) shall not apply with respect to that transfer.

(c) TERMS OF TRANSFER.—Any transfer of a vessel under subsection (a) shall be subject to such terms and conditions as the President may require.

(d) EXPENSES.—Any costs incurred in the transfer of a vessel under subsection (a) shall be at the expense of the Republic of the Philippines.

(e) EXPIRATION OF AUTHORITY.—The authority granted by this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

Approved June 30, 1989.

LEGISLATIVE HISTORY—H.R. 2344:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 23, considered and passed House.
June 15, considered and passed Senate.

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Public Law 101-45
101st Congress

An Act

Making supplemental appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 1989, and for other purposes.

June 30, 1989
[H.R. 2402]

Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the Department of Veterans Affairs for the fiscal year ending September 30, 1989, and for other purposes, namely:**

DEPARTMENT OF VETERANS AFFAIRS

Veterans Benefits Administration

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $701,481,000, to remain available until expended.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $22,212,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

For an additional amount for "Loan Guaranty Revolving Fund", $120,100,000, to remain available until expended.

Veterans Health Service and Research Administration

MEDICAL CARE

For an additional amount for "Medical care", $340,125,000: *Provided*, That of the sums appropriated under this heading in fiscal year 1989, not less than $6,800,000,000 shall be available only for expenses in the personnel compensation and benefits object classifications.

Departmental Administration

GENERAL OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "General operating expenses", $24,900,000, of which $15,000,000 shall be derived by transfer from "Construction, minor projects": *Provided,* That in the appropriation language under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989, insert a period after "$774,316,000" and delete the language that follows.

TITLE I—DIRE EMERGENCY SUPPLEMENTALS AND TRANSFERS

CHAPTER I

EMERGENCY DRUG FUNDING

DEPARTMENT OF JUSTICE

To strengthen Federal domestic drug law enforcement at the local level for additional assistant United States attorneys, deputy United States marshals and other agents, including necessary equipment and supplies; initiate plans to acquire available military facilities for use as prisons or Civilian Conservation Corps type use for drug offenders; speed up planning for not less than three prisons in areas where most needed; and to expedite the purchase of automatic data processing equipment to improve the exchange of information, $71,000,000, notwithstanding any designations contained in titles I through IX of Public Law 100-690: *Provided,* That not later than thirty days after each month the Attorney General shall report to the Committees on Appropriations of the Senate and House of Representatives on the monthly obligation of these funds.

Reports.

THE JUDICIARY

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners" to strengthen drug law enforcement at the local level, $4,000,000.

CHAPTER II

DEPARTMENT OF JUSTICE

Office of Justice Programs

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance" for the Public Safety Officers' Benefits Program, $4,000,000 to remain available until expended.

THE JUDICIARY

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT FUND

For payment to the Judicial Officers' Retirement Fund, as authorized by Public Law 100-659, $2,300,000.

CHAPTER III

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

(TRANSFER OF FUNDS)

For additional amounts for appropriations for the fiscal year 1989, for increased pay costs authorized by or pursuant to law as follows:

"General regulatory functions", $1,100,000, to be derived by transfer from "Operation and maintenance, general".

"General expenses", $2,600,000, to be derived by transfer from "Construction, general".

GENERAL REGULATORY FUNCTIONS

(TRANSFER OF FUNDS)

For an additional amount for "General regulatory functions", $2,225,000, to remain available until expended, to be derived by transfer from "Construction, general".

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For an additional amount for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), $55,000,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,429,000,000 in fiscal year 1989, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1989 so as to result in a final fiscal year 1989 appropriation estimated at not more than $0.

GENERAL PROVISIONS

SEC. 301. Sunset Harbor, California: Section 1119(a) of the Water Resources Development Act of 1986 is amended by adding at the end

California.
100 Stat. 4238.

thereof the following: "The total cost referred to in the preceding sentence may be increased by the Secretary by any amount contributed by non-Federal interests which is in excess of amounts contributed by non-Federal interests under the preceding sentence.".

Iowa.

SEC. 302. Saylorville Lake, Iowa: From Construction, General funds heretofore or hereafter appropriated, the Secretary of the Army is directed to construct Highway 415, Segment "C" at the Saylorville Lake, Iowa, Project in accordance with terms of the Relocations Contract executed on June 21, 1984, between the Rock Island District Engineer and the State of Iowa.

Ohio.
Conservation.

SEC. 303. Sims Park, Ohio: The Secretary of the Army, acting through the Chief of Engineers, shall undertake a beach erosion control project at Sims Park, Euclid, Ohio, using funds appropriated under the heading "CONSTRUCTION GENERAL" in title I of the Energy and Water Development Appropriation, 1988 (Public Law 100-202; 101 Stat. 107).

Oregon.
Washington.

SEC. 304. The undesignated paragraph under the heading "Bonneville Lock and Dam, Oregon and Washington—Columbia River and Tributaries Washington" in section 301(a) of Public Law 99-662 (100 Stat. 4110) is amended by striking out "$191,000,000" in two places and inserting in lieu thereof "$328,000,000".

Ohio.
Water.

SEC. 305. From existing funds appropriated pursuant to Public Law 100-371, an Act making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 to undertake preliminary engineering and design for a project at West Fork of Mill Creek Lake, Ohio, pursuant to section 1135 of Public Law 99-662, as amended.

CHAPTER IV

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

ECONOMIC SUPPORT FUND

Of the funds appropriated in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, up to $200,000 of the unearmarked funds appropriated under the heading "Economic Support Fund" may be made available for the support of the process of democratic transition in Poland, which may include, among other things, civic education programs, including independent media and publishing activities: *Provided*, That funds made available under this paragraph may be used without regard to any provision of law which would otherwise prohibit the use of foreign assistance funds with respect to Poland: *Provided further*, That there shall be available an additional amount for the "Economic Support Fund", $3,000,000, which shall be made available notwithstanding any other provision of law for the promotion of democracy in Nicaragua: *Provided further*, That of the funds made available under this heading for the promotion of democracy in Nicaragua, $1,500,000 shall be made available as a contribution to the Organization of American States to carry out election monitoring activities in Nicaragua: *Provided further*, That the amount provided for promotion of democracy in Nicaragua under this heading shall be derived from funds appropriated under such heading in the Foreign

Operations, Export Financing, and Related Programs Appropriations Act, 1987, or from funds earmarked under such heading in Public Law 100-202 for reconstruction and rehabilitation of the National University of El Salvador and other institutions of higher education in El Salvador: *Provided further*, That such funds shall be in addition to funds made available for the promotion of democracy in Nicaragua by Public Law 100-461.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and refugee assistance", $100,000,000, to support emergency refugee admissions and assistance: *Provided*, That this amount may be derived through new budget authority, or the President may transfer to such account for purposes of this paragraph any unobligated and unearmarked funds made available under Public Law 100-461, notwithstanding section 514 as amended by section 589 of Public Law 100-461: *Provided further*, That if the President transfers funds for this paragraph not more than 3.3 per centum of the unobligated and unearmarked funds available under any account in Public Law 100-461 may be transferred: *Provided further*, That any transfer of funds pursuant to this paragraph shall be subject to the regular reprogramming procedures of the Committees on Appropriations: *Provided further*, That not less than $85,000,000 of such amount shall be made available for Soviet and other Eastern European Refugee admissions and for admissions restored to other regions: *Provided further*, That funds provided under this paragraph are available until expended.

GENERAL PROVISIONS

SEC. 401. The Congress finds that failing to recognize natural resource depletion causes current systems of economic statistics to provide a distorted representation of many nations' economic condition.

International organizations.

(a) The Secretary of State shall instruct the United States representative to the Organization for Economic Cooperation and Development and to the United Nations and its appropriate affiliated organizations to seek revisions in the manner in which these organizations report the income and economic activities of nations. Such a system of accounting shall recognize the depletion or degradation of natural resources as a component of economic activities.

(b) The Secretary of the Treasury shall instruct the United States Executive Director to each Multilateral Development Bank and to the International Monetary Fund to seek the adoption of revisions in accounting systems as described in subsection (a).

(c) The Administrator of the Agency for International Development shall incorporate the changes described in subsection (A) into AID's evaluations and projections of the economic performance of recipient countries.

HAITI

Section 563(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, as contained in Public Law 100-461 is amended by adding two new subsections as follows:

102 Stat. 2268-40.

"(11) assistance consisting of sales and donations of agricultural commodities under Public Law 480, in an amount not to exceed $12,000,000;

"(12) animal and plant health programs, where the assistance is primarily for the benefit of the United States.".

CHAPTER V

DEPARTMENT OF THE INTERIOR AND DEPARTMENT OF AGRICULTURE

For an additional amount for emergency rehabilitation, forest firefighting, fire severity presuppression, and other emergency costs on National Forest System lands and Department of Interior lands, $341,669,000 of which (1) $30,180,000 is for "Bureau of Land Management, Management of lands and resources"; (2) $2,895,000 is for "United States Fish and Wildlife Service, Resource management"; (3) $25,000,000 is for "National Park Service, Operation of the National Park System"; (4) $33,594,000 is for "Bureau of Indian Affairs, Operation of Indian Programs"; and (5) $250,000,000 is for "Forest Service, National Forest System": *Provided*, That such funds are to be available for repayment of advances to other appropriation accounts from which funds were transferred in fiscal year 1987 and fiscal year 1988 for such purposes.

DEPARTMENT OF THE INTERIOR

Oil Spill Emergency Fund

For an additional amount for the Department of the Interior for contingency planning, response and natural resource damage assessment activities related to the discharge of oil from the tanker Exxon Valdez into Prince William Sound, Alaska, $7,300,000, to be available until September 30, 1990: *Provided*, That for purposes of obligation and expenditure, these funds shall be transferred, upon approval of the Secretary, to existing appropriations of the Department of the Interior: *Provided further*, That any reimbursements from the Pollution Fund of the Coast Guard or other sources for activities for which funds were transferred from this account are to be credited back to this account: *Provided further*, That notwithstanding any other provision of law, in fiscal year 1989 and thereafter, sums provided by any party, including sums provided in advance as (1) reimbursement for contingency planning, response or damage assessment activities conducted or to be conducted by any agency funded in the Department of the Interior and Related Agencies Appropriations Act as a result of any discharge of oil into the environment or (2) damages for injuries resulting from such a discharge to resources for which an agency funded in the Department of the Interior and Related Agencies Appropriations Act is a trustee, may be credited to the relevant appropriation for that agency then current and shall be available until expended: *Provided further*, That section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1989, is amended as follows: after the term "volcanoes" insert "; for contingency planning subsequent to actual oilspills, response and natural resource damage assessment activities related to actual oilspills". 102 Stat. 1799.

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

(TRANSFER OF FUNDS)

Monies received from government operations and sale of the Great Plains Gasification Plant, including accrued interest, which currently are deposited in the liquidating trust at the First Trust of North Dakota shall be deposited in this account, and $12,000,000 determined by the Secretary of Energy to be excess to the needs of ongoing alternative fuels programs shall be transferred to the General Fund of the Treasury prior to October 1, 1989.

CLEAN COAL TECHNOLOGY

Notwithstanding any other provision of law, funds originally appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1989, shall be available for a third solicitation of clean coal technology demonstration projects, which projects are to be selected by the Department not later than January 1, 1990.

GENERAL PROVISIONS

10 USC 7431 note.

SEC. 501. No funds appropriated or made available heretofore or hereafter under this or any other Act may be used by the executive branch to contract with organizations outside the Department of Energy to perform studies of the potential transfer out of Federal ownership, management or control by sale, lease, or other disposition, in whole or in part, the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: *Provided,* That the negotiation of changes to the unit plan contract with Chevron which governs operation of Elk Hills, where the purpose of the changes is to prepare for the divestiture of the Reserve, is prohibited.

Forests and forest products.

SEC. 502. Notwithstanding any other provision of law, the Secretary of the Treasury is directed to provide the Secretary of Agriculture, to remain available until expended, total timber receipts in fiscal year 1988 in excess of $791,000,000 as required in Public Law 100-446, without reductions for payments made in accordance with the provision of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided,* That additional receipts made available by this section shall be distributed by the Secretary of Agriculture in the same manner as provided in Public Law 100-446.

SEC. 503. The Department of the Interior and Related Agencies Appropriations Act, fiscal year 1989 (Public Law 100-446), is amended under the heading "Miscellaneous Payments to Indians" by inserting "100-383," after "98-500,".

102 Stat. 1796.

SEC. 504. Of the funds appropriated in Public Law 100-446 under the heading "Forest Service, National Forest System", $400,000 shall be transferred to the appropriation account "Forest Service, Forest Research".

CHAPTER VI

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

TRADE ADJUSTMENT ASSISTANCE

For an additional amount for "Federal Unemployment Benefits and Allowances", $90,648,000, of which $56,000,000 shall be for activities as provided by part 1, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, and $34,648,000 shall be for activities, including necessary related administrative expenses, as authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Funds made available under the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1989 (Public Law 100-436), that are authorized under section 6 of the Wagner-Peyser Act (29 U.S.C. 49e) may be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986.

Occupational Safety and Health Administration

SALARIES AND EXPENSES

For an additional amount for the Occupational Safety and Health Administration, $3,200,000, which shall be available for a grant to the State of California under section 23(g) of the Occupational Safety and Health Act.

Departmental Management

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", $1,445,000, to be derived by a transfer of such sum from the amounts available for Departmental Management administrative expenses in the fiscal year 1989 Black Lung Disability Trust Fund appropriation.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For activities authorized under section 799A(e) of the Public Health Service Act, $800,000.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

Funds appropriated by the Department of Health and Human Services Appropriations Act, 1989, to implement section 4005(e) of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, may not be used to provide forward or multiyear funding.

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

The last proviso under this heading in Public Law 100-436, related to automatic data processing and telecommunications expenditures, is deleted.

102 Stat. 1695.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For an additional amount for "Payments to States for Foster Care and Adoption Assistance", $423,345,000 for title IV-E of the Social Security Act, which shall be available for prior years' claims.

DEPARTMENT OF EDUCATION

IMPACT AID

Section 5(e)(1)(D) of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1987 but is an agency described in section 5(c)(2)(A)(iii) of the Act in fiscal year 1989 as a result of families being moved off-base in order to renovate base housing: *Provided*, That any school district which received a payment under section 5(b)(2) of the Act for fiscal year 1986 but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the Federal property shall be deemed eligible for payments under section 2, for fiscal year 1989 only.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Appropriations under the heading "Rehabilitation Services and Handicapped Research" shall be considered as funds mandated by law for purposes of applying section 517 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989.

GUARANTEED STUDENT LOANS

For payment of obligations under this heading incurred during fiscal year 1989, $892,428,000.

HIGHER EDUCATION

For an additional amount for "Higher Education" which shall be available for such project as the Secretary may deem appropriate which is authorized under existing law, $1,600,000.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

(RESCISSION)

Of funds provided under this head for necessary expenses of the National Student Loan Data System, $5,533,000 are rescinded.

OFFICE FOR CIVIL RIGHTS

For an additional amount for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $790,000.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $440,000.

RELATED AGENCIES

RAILROAD RETIREMENT BOARD

LIMITATION ON REVIEW ACTIVITY

For an additional amount for "Limitation on Review Activity", $150,000.

PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For the Prescription Drug Payment Review Commission, as authorized by section 1847 of title XVIII of the Social Security Act, $250,000, to be derived by transfer of $125,000 from the Physician Payment Review Commission and $125,000 from the Prospective Payment Assessment Commission, to remain available until expended.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For carrying out activities under Public Law 100-382, $1,750,000.

CHAPTER VII

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Carolyn F. Nichols, widow of Bill Nichols, late a Representative from the State of Alabama, $89,500.

LIBRARY OF CONGRESS

Effective June 15, 1989, the Library of Congress shall provide financial management services and support to the United States Capitol Preservation Commission as may be required and mutually agreed to by the Librarian of Congress and the Cochairmen of the United States Capitol Preservation Commission. 2 USC 142i.

CHAPTER VIII

DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed an additional $2,500,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for necessary administrative expenses of the Agricultural Stabilization and Conservation Service incurred in carrying out fiscal year 1989 workload in connection with 1988 disaster assistance activities only, not to exceed $40,000,000, to be derived by transfer from the Commodity Credit Corporation: *Provided,* That of this amount, $275,000 shall be transferred to the Cooperative State Research Service to be paid to the Kansas Agricultural Research Experiment Station at Kansas State University for the purposes of disseminating information to farmers on methods of alleviating drought problems and exploring improved water conservation techniques.

CONSERVATION RESERVE PROGRAM

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Conservation Reserve Program", delete the sum "$1,864,000,000" and insert in lieu thereof "$1,789,000,000", and delete the sum "$385,000,000" and insert in lieu thereof "$370,000,000". 102 Stat. 2253.

ADVANCED DEFICIENCY PAYMENTS

Notwithstanding any other provision of law, effective only for the 1988 crops of wheat, feed grains, upland cotton and rice, if the Secretary determines that any portion of the advanced deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refunds shall not be required prior to December 31, 1989, for that portion of the crop for which a disaster payment is made under section 201(a) of the Disaster Assistance Act of 1988: *Provided,* That for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), this provision is a necessary (but secondary) result of a significant policy change.

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

OPERATING LOANS

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For an additional amount for insured operating loans, $32,500,000, to be derived by transfer from emergency disaster loans, to remain available until September 30, 1990: *Provided,* That the Secretary shall allocate immediately insured farm operating loans to States from the national reserve, from pooling of unobligated funds previously allocated to States, and from this appropriation, in a manner that will provide each State with an opportunity to fund at least the same level of obligations as in fiscal year 1988: *Provided further,* That in Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Agricultural Credit Insurance Fund", delete the sum of "$600,000,000" and insert in lieu thereof "$562,500,000".

102 Stat. 2244.

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Agricultural Credit Insurance Fund", delete the sum of "$14,000,000" and insert in lieu thereof "$7,000,000", delete the first sum of "$3,000,000" and insert in lieu thereof "$1,500,000", and delete the sum of "$2,000,000" and insert in lieu thereof "$1,000,000".

RURAL HOUSING INSURANCE FUND

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Rural Housing Insurance Fund" the first proviso of the second paragraph is hereby amended to read as follows: "*Provided,* That of this amount not less than $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949:".

102 Stat. 2243.

RURAL DEVELOPMENT INSURANCE FUND

For an additional amount for insured water and sewer facility loans, $2,500,000, to remain available until expended.

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for water and waste disposal grants, $7,500,000, to remain available until expended.

SOIL CONSERVATION SERVICE

REIMBURSEMENT TO THE SOIL CONSERVATION SERVICE FOR CONSERVATION RESERVE PROGRAM ASSISTANCE

The Agricultural Stabilization and Conservation Service shall reimburse the Soil Conservation Service for services provided to carry out the Conservation Reserve Program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), at a rate of $3.00 per acre bid in the program: *Provided,* That reimbursement for this service is made retroactive to October 1, 1988.

WATERSHED AND FLOOD PREVENTION OPERATIONS

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Watershed and Flood Prevention Operations", delete the sum "$7,949,000" and insert in lieu thereof "$4,000,000". 102 Stat. 2250.

RESOURCE CONSERVATION AND DEVELOPMENT

In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Resource Conservation and Development", delete the sum "$1,207,000" and insert in lieu thereof "$600,000". 102 Stat. 2250.

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for necessary expenses to carry out the Food Stamp Act, $224,624,000.

FOOD AND DRUG ADMINISTRATION

For an additional amount for orphan product grants and contracts, $500,000.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

For an additional amount for "Payments to air carriers", $6,600,000: *Provided,* That notwithstanding any other provision of 49 USC app. 1389 note.

law, after September 30, 1989, no subsidy shall be paid for any service to or from any essential air service point in the contiguous United States for which the per passenger subsidy exceeds $300.

STATE AND LOCAL ANTI-APARTHEID POLICIES

22 USC 5117.

Notwithstanding any other provision of this or any other law, none of the funds provided by this or any previous or subsequent Act to the Department of Transportation shall be withheld from State or local grantees for any reason related to the adoption by any such grantee of a policy prohibiting the procurement of products manufactured or fabricated in the Republic of South Africa.

COAST GUARD

OPERATING EXPENSES

Notwithstanding any other provision of law, in fiscal year 1989 and thereafter, sums provided by any party, including sums provided in advance, as reimbursements for operating expenses incurred by the United States Coast Guard in response to the oilspill from the "Exxon Valdez" grounding, shall be credited to the "Operating expenses" appropriation for the United States Coast Guard, and shall remain available until expended.

From funds made available under this head in Public Law 100-457, up to $5,600,000 shall be made available until expended for development, acquisition, installation, operation, and support, including personnel, or equipment to provide vessel traffic management information in the New York Harbor area: *Provided,* That the United States Coast Guard shall initiate action within sixty days of the date of enactment of this Act to establish such a system: *Provided further,* That, within sixty days of the date of enactment of this Act, the Secretary shall initiate a rulemaking to determine which class or classes of vessels operating in the New York Harbor area shall be required to participate in an active vessel traffic management system, and the specific operating procedures and requirements of such a mandatory system.

Notwithstanding any other provision of law, funds available under this head in both Public Law 100-457 and this Act shall be available for expenses incurred in fiscal year 1989 by the Coast Guard in responding to any oilspill.

FEDERAL AVIATION ADMINISTRATION

49 USC app. 1356 note.

INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Not later than thirty days after the date of the enactment of this Act, the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection equipment that meets minimum performance standards requiring application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such equipment is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of this Act: *Provided,* That notwithstanding any other provision of law, the Federal Aviation Administration shall renegotiate the Logan County Airport grant agreements"5-54-0013-01-77" and "5-54-0013-02-78" to include funds sufficient to cover the additional project costs associated with project delay and inflation, so that the project can be completed as originally intended.

FEDERAL HIGHWAY ADMINISTRATION

Bridges.

The paragraph designated "Discretionary Bridge Program" under the heading "General Provisions" of chapter XI of title I of Public Law 100-71 (101 Stat. 436) is amended by adding at the end thereof the following: "Phase II of such project shall include, for purposes of funding under the discretionary bridge program, construction of the bridge from the end of phase one on City Island to the touchdown point of the bridge near Fourteenth Street. Application and determination of eligibility for additional funding on the project beyond present commitments shall occur without regard to the current schedule of bidding and construction, prior determinations of agreements by the United States Department of Transportation concerning the boundaries of phase II of the project.".

CHAPTER X

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INTERNATIONAL AFFAIRS

(TRANSFER OF FUNDS)

For an additional amount for "International affairs", not to exceed $1,623,000, to be derived by transfer from "Salaries and expenses".

CHAPTER XI

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for the purchase of prosthetic appliances for "Medical care", $5,000,000, to be derived by transfer from "Construction, major projects".

Notwithstanding any other provision of this Act, the proviso following "$340,125,000" under the head "Veterans Health Service and Research Administration, Medical Care" contained in the earlier part of this Act, shall have no force or effect.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

Annual Contributions for Assisted Housing

Of the amounts heretofore provided for the section 8 moderate rehabilitation program, any amounts in excess of $47,000,000 that are recaptured during fiscal year 1989 shall not be subject to the requirements of the sixth proviso under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014).

Payments for Operation of Low-Income Housing Projects

(TRANSFER OF FUNDS)

For an additional amount for "Payments for operation of low-income housing projects", $88,000,000, to remain available until September 30, 1990: *Provided*, That such amount shall be derived by transfer from "Annual contributions for assisted housing", and the amount specified for the section 8 moderate rehabilitation program in the first proviso under that head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014) shall be reduced by such amount: *Provided further*, That from the foregoing amount, $8,200,000 shall be made available, notwithstanding section 9(d) of the United States Housing Act of 1937, for grants for use in eliminating drug-related crime in public housing projects, consistent with the criteria set forth in section 5125(b), and reflected in other requirements of the Public Housing Drug Elimination Act of 1988 (Public Law 100-690, 102 Stat. 4301).

Management and Administration

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,490,000, to be derived by transfer from "Urban development action grants".

ADMINISTRATIVE PROVISION

Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f)) is amended—

New York.

(1) by inserting after "State of New York" the following: "or City of New York"; and

(2) in clause (1), by inserting "or municipal" after "State".

INDEPENDENT AGENCIES

Court of Veterans Appeals

SALARIES AND EXPENSES

For necessary expenses for the initial startup costs and operation of the Court of Veterans Appeals as authorized by sections 4051-4091 of title 38, United States Code, $3,100,000, to remain available until September 30, 1990: *Provided,* That, notwithstanding section 4081 of title 38, United States Code, during fiscal year 1989 (1) the United States Court of Veterans Appeals may (A) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint not to exceed 35 employees (and employees to replace any employees so appointed whose employment by the Court is terminated) who shall be eligible for noncompetitive conversion to a position in the competitive service if (i) application therefor is made to the Office of Personnel Management by December 31, 1990, and (ii) the Director of the Office of Personnel Management determines that such noncompetitive conversion is in the interest of the Government, and (B) procure the services of experts and consultants under section 3109 of such title, (2) in the making of appointments pursuant to clause (1), preference among equally-qualified persons shall be given to persons who are preference eligibles (as defined in section 2108(3) of such title), and (3) the authorities provided in clause (1) may be exercised by the Chief Judge of the Court whenever there are not at least two Associate Judges on the Court.

38 USC 4081 note.

Environmental Protection Agency

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $6,000,000.

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control, and compliance", $9,000,000, to remain available until September 30, 1990.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of available funds under this head, $15,000,000 are rescinded.

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", up to $5,000,000, which shall be derived by transfer from "Abatement, control, and compliance".

Federal Emergency Management Agency

EMERGENCY FOOD AND SHELTER PROGRAM

(TRANSFER OF FUNDS)

For an additional amount for the "Emergency food and shelter program", $12,000,000, to be derived by transfer from "Urban development action grants".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", up to $35,000,000, to be derived by transfer from "Research and development" and "Space flight, control and data communications".

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for "Research and related activities", $37,500,000, to remain available until September 30, 1991.

For an additional amount for "Research and related activities", $37,500,000, to remain available until September 30, 1991: *Provided*, That this amount shall not be available for obligation until October 1, 1989: *Provided further*, That this additional amount made available on October 1, 1989 is in addition to the amount made available upon enactment.

CHAPTER XII

DISTRICT OF COLUMBIA

INAUGURAL EXPENSES PAYMENT

(TRANSFER OF FUNDS)

For an additional amount for "Inaugural expenses payment", $1,000,000, to be derived from Expenses, Presidential Transition, General Services Administration.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $26,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 to 2269-2), $7,216,000 are rescinded for a net decrease of $7,190,000.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $1,990,000: *Provided*, That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462;

102 Stat. 2269-2), $19,016,000 are rescinded for a net decrease of $17,026,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $29,360,000, of which $5,064,000, to remain available until expended, shall be solely for overtime expenses of the Metropolitan Police Department and $800,000, to remain available until expended, shall be solely for overtime expenses of the Superior Court: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-2 to 2269-4), $1,210,000 are rescinded for a net increase of $28,150,000.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $4,529,000, which shall be allocated as follows: $3,758,000 for the public schools of the District of Columbia and $771,000 for the District of Columbia School of Law: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $2,000,000 for the University of the District of Columbia, $6,000 for the Educational Institution Licensure Commission, $389,000 for the Public Library, and $185,000 for the Commission on the Arts and Humanities are rescinded for a net increase of $1,949,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $45,858,000: *Provided,* That $3,611,000 of this appropriation, to remain available until expended, shall be available solely for the District of Columbia's employees' disability compensation: *Provided further,* That of the funds provided for the Office of Emergency Shelter and Support Service, $750,000 shall be used to provide food for the homeless and may not be used for any other purpose: *Provided further,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $9,945,000 are rescinded for a net increase of $35,913,000.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $5,436,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-4), $10,655,000, including $300,000 from the school transit subsidy are rescinded for a net decrease of $5,219,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center fund", $543,000.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100–462; 102 Stat. 2269-5), $5,834,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $13,950,000: *Provided*, That in addition, all net revenue that the District of Columbia government may collect as a result of the District of Columbia government's pending appeal in the consolidated case of U.S. Sprint communications et al. v. District of Columbia, et al., CA 10080-87 (court order filed on November 14, 1988), shall be applied solely to the repayment of the general fund accumulated deficit.

SHORT-TERM BORROWINGS

For an additional amount for "Short-term borrowings", $4,592,000.

PERSONAL SERVICES ADJUSTMENTS

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100–462; 102 Stat. 2269-1 through 2269-6), $18,553,000 as determined by the Mayor, are rescinded: *Provided*, That the Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14: *Provided further*, That during the fiscal year ending September 30, 1989, the Mayor shall reduce the number of authorized, full-time, funded positions above DS–10 by 318.

INAUGURAL EXPENSES

For an additional reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $1,000,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

ENERGY ADJUSTMENT

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100–462; 102 Stat.

2269-1 through 2269-6), an additional $349,000 as determined by the Mayor are rescinded from object class 30(a) energy.

EQUIPMENT ADJUSTMENT

(RESCISSION)

Of the funds appropriated under the various appropriation headings for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-1 through 2269-6), $3,500,000 as determined by the Mayor are rescinded from object class 70 (equipment).

CAPITAL OUTLAY

(INCLUDING RESCISSION)

For an additional amount for "Capital outlay", $146,642,000, to remain available until expended: *Provided*, That of the amounts appropriated under this heading in prior fiscal years, $15,970,000 are rescinded for a net increase of $130,672,000: *Provided further*, That $14,700,000 shall be available solely for the Correctional Treatment Facility of which $8,700,000 shall be for delay claims owed to the contractor for construction delays and $6,000,000 shall be for fixtures and equipment connected to the floors, walls, and ceilings of the Facility by means of structural, mechanical, or electrical requirements: *Provided further*, That $4,185,000 shall be available for project management and $9,425,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That $25,000,000 shall be available to the Department of Corrections for a feasibility study, site acquisition, and design and construction of a jail that is generally bounded by G Street, N.W. on the north, 6th Street, N.W. on the west, Pennsylvania Avenue, N.W. on the south and 1st Street, N.W. on the east: *Provided further*, That the feasibility study shall include a companion analysis of a revised mission for the present jail to prevent duplication: *Provided further*, That the executive branch is prohibited from disposing of any property in the Judiciary Square area that is under the jurisdiction of the Mayor until a site has been chosen.

WATER AND SEWER ENTERPRISE FUND

Of the funds appropriated under this heading for fiscal year 1989 in the District of Columbia Appropriations Act, 1989, approved October 1, 1988 (Public Law 100-462; 102 Stat. 2269-7), $100,000 shall be available to compensate individuals as provided in the Water Main Break Fund Emergency Act of 1988, effective December 21, 1988 (D.C. Act 7-269; to be codified at D.C. Code, sec. 47-375, note).

ADMINISTRATIVE PROVISIONS

The United States hereby forgives $5,064,000 of the fourth quarter indebtedness incurred by the District of Columbia government to the United States pursuant to the Act of March 3, 1915, D.C. Code, sec. 24-424, as amended, this amount being equal to the increased cost of housing District of Columbia convicts in Federal penitentiaries during the fiscal year ending September 30, 1989: *Provided*, That for the fiscal year ending September 30, 1990, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

Notwithstanding any other provision of law, including, but not limited to the District of Columbia Historic Landmark and Historic District Protection Act of 1978, D.C. Law 2-144, as amended, 25 DCR 6939 (1979), the District of Columbia Government is directed to begin construction of a correctional facility to be located in the District of Columbia, as described in Public Law 99-591, within thirty days of enactment of this Act.

TITLE II—URGENT SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $28,400,000, to remain available until expended.

DEPARTMENT OF JUSTICE

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $1,800,000.

ASSETS FORFEITURE FUND

(RESCISSION)

Of the $75,000,000 in expenses authorized by 28 U.S.C. 524 and appropriated from receipts of the Assets Forfeiture Fund in 1989 (Public Law 100-459), $2,232,000 are rescinded.

Office of Justice Programs

JUSTICE ASSISTANCE

(INCLUDING RESCISSION)

From the amounts made available to the National Institute of Justice in Public Law 100-459, there shall be available $200,000 for a grant to the University of South Carolina for the purpose of studying the causes and effects of the increasingly disproportionate use of illegal drugs in the black community: *Provided*, That of deobligated funds previously awarded from appropriations for "Justice assistance", $2,053,000 are rescinded, notwithstanding any other provision of law.

DEPARTMENT OF STATE

GENERAL PROVISION

(TRANSFER OF FUNDS)

SECTION. 1. In order to meet urgent requests that may arise during fiscal year 1989 for contributions and other assistance for new international peacekeeping activities, and to reimburse funds originally appropriated for prior international peacekeeping activities, which have been reprogrammed for new international peacekeeping activities, the President may transfer during fiscal year 1989 such of the funds described in section 2(a) as the President deems necessary, but not to exceed $125,000,000 to the "CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES" account or the "PEACEKEEPING OPERATIONS" account administered by the Department of State, notwithstanding section 15(a) of the Department of State Basic Authorities Act of 1956, section 10 of Public Law 91-672, or any other provision of law.

SEC. 2. (a) IN GENERAL.—The funds that may be transferred under the authority of this heading for use in accordance with section 1 are—

(1) any funds available to the Department of Defense during fiscal year 1989, other than funds appropriated by the Department of Defense Appropriations Act, 1989 (Public Law 100-463); and

Grants.

(2) any funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461) for the "MILITARY ASSISTANCE" account, for the "INTERNATIONAL MILITARY EDUCATION AND TRAINING" account, or for grants under the "FOREIGN MILITARY FINANCING PROGRAM" account.

(b) RELATIONSHIP TO CERTAIN OTHER PROVISIONS.—Funds described in subsection (a)(2) may be transferred and used for contributions or other assistance for new international peacekeeping activities in accordance with section 1 of this provision notwithstanding section 514 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.

SEC. 3. (a) REVIEW OF PROPOSED TRANSFERS.—Any transfer of funds pursuant to section 1 shall be subject to the regular reprogramming procedures of the following committees:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Armed Services of each House of Congress if funds described in paragraph (1) of section 2(a) are to be transferred.

(3) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate if funds described in paragraph (2) of section 2(a) are to be transferred.

(b) REVIEW OF PROPOSED OBLIGATIONS.—The regular reprogramming procedures of the following committees shall apply with respect to the obligations of any funds transferred pursuant to section 1:

(1) The Committee on Appropriations of each House of Congress.

(2) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

Cub
Angola.
South Africa.
Namibia.
International agreements.

SEC. 4. (a) Of the amount that may be transferred pursuant to section 1, $38,950,000 shall be made available upon enactment for contribution with respect to implementation of the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988 (hereafter known as the Tripartite Agreement) only if the President determines and certifies to the appropriate Congressional committees that (1) the armed forces of the South West Africa People's Organization (SWAPO) have left Namibia and returned north of the 16th parallel in Angola in compliance with the agreements, (2) the United States has received explicit and reliable assurances from each of the parties to the Bilateral Agreement that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date, and (3) the Secretary General of the United Nations has assured the United States that it is his understanding that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date.

(b) An additional $38,950,000 of such amount shall be made available after August 15, 1989, for implementation of the Tripartite Agreement only if the President has determined and certified to the appropriate Congressional committees that (1) each of the signatories to the Tripartite Agreement is in compliance with its obligations under the Agreement, (2) the Government of Cuba has complied with its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops), specifically with respect to its obligations as of August 1, 1989, (3) the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare, (4) the United Nations and its affiliated agencies have terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization (SWAPO), and (5) the United Nations Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

(c) Funding of these activities by the United States may not be construed as constituting recognition of any government in Angola.

(d) The term "Bilateral Agreement" means the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988, and the term "Tripartite Agreement" means the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988.

(e) The term "appropriate Congressional committees" means the Committees on Appropriations, Foreign Affairs, and Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations, Foreign Relations, and the Select Committee on Intelligence of the Senate.

International organizations.
Loans.

SEC. 5. The Secretary of the Treasury shall instruct the United States Executive Directors to the International Monetary Fund and the International Bank for Reconstruction and Development to vote

in opposition to the entry of the Government of Angola into these financial institutions or to approve any loans to Angola unless the President certifies to the appropriate congressional committees that progress is being made toward national reconciliation.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Maritime Administration

FEDERAL SHIP FINANCING FUND

For payment to the Secretary of the Treasury for debt reduction, $515,000,000, to remain available until expended.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for each of the following:

(1) the vessel LIBERTY, hull identification number BHA 5512 B and State of Hawaii registration number HA 5512 B;

(2) the vessel NAVATEK I;

(3) the vessel NANCY ANN, United States official number 901962; and

(4) the vessel NOR'WESTER, United States official number 913451.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

That the authority under the Supplemental Appropriations Act, 1985 (Public Law 99-88) with respect to the relocation of the Fort Lauderdale Monitoring Station be amended to authorize the Federal Communications Commission to expend the funds remaining from the sale of the Fort Lauderdale, Florida Monitoring Station, for salaries and expenses in fiscal year 1989 in lieu of returning the unused funds to the general fund of the United States Treasury.

LEGAL SERVICES CORPORATION

ADMINISTRATIVE PROVISION

Grants.
Contracts.

None of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation, or any other funds available to the Corporation, shall be used by the Corporation Board, members, staff, or consultants, to consider, develop, or implement any system for the competitive award of grants until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive awards of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence: *Provided,* That the Corporation shall insure that all grants or contracts made during calendar year 1989 to all grantees funded under sections 1006(a) (1) and (3) of the Legal Services Corporation Act with funds appropriated in Public Law 100-459, or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1989, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to Public Law 100-459, and shall not be subject to any amendments to regulations relating to fee generating cases (45 CFR Part 1609) or the use of private funds (45 CFR Parts 1610 and 1611) not in operational effect on October 1, 1988.

ADMINISTRATIVE PROVISIONS

SEC. 101. Funds appropriated to the Commission for the Study of International Migration and Cooperative Economic Development and the Commission on Agricultural Workers in Public Law 100-459 shall remain available until expended.

SEC. 102. The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, and upon notification to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of Public Law 100-459, may transfer unobligated balances available under Courts of Appeals, District Courts, and Other Judicial Services, "Defender Services", to any appropriation account of the Judiciary: *Provided*, That compensation and reimbursement of attorneys and others as authorized under section 3006A of title 18, United States Code, and section 1875(d) of title 28, United States Code, may hereinafter be paid from funds appropriated for "Defender Services" in the year in which payment is required.

18 USC 3006A note.

Communications and telecommunications. Aircraft and air carriers.

SEC. 103. Funds heretofore or hereafter appropriated or otherwise made available to the United States Information Agency for television broadcasting to Cuba may be used by the Agency to lease, maintain and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

SEC. 104. Section 631(b)(1) of title 28, United States Code, is amended by striking out all after "Puerto Rico, or the Virgin Islands of the United States," through "the bar of the district court of the Virgin Islands;" at the end of subparagraph (B), and by striking out the words "the first sentence of" that appear in the same paragraph.

SEC. 105. None of the funds provided in this or any prior Act shall be available for obligation or expenditure to relocate, reorganize or consolidate any office, agency, function, facility, station, activity, or other entity falling under the jurisdiction of the Department of Justice.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

ADMINISTRATIVE PROVISIONS

SEC. 201. (a) Section 8111 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-38) is amended by striking out "$1,163,200,000" and inserting in lieu thereof "$1,258,600,000".

(b) The additional funds made available pursuant to subsection (a) may be used only to cover costs related to underestimates of the cost of transporting exchange merchandise to overseas locations and to compensate for adverse changes in foreign currency exchange rates.

SEC. 202. Section 8119 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-39/40) is repealed.

SEC. 203. Section 8080 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by inserting the following provision at the end of the paragraph, after "skills": ": *Provided further,* That these limitations shall not apply to members who enlist in the armed services on or after July 1, 1989, under a fifteen-month program established by the Secretary of Defense to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense".

102 Stat. 2270-30.

SEC. 204. Section 8031 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-22/23) is amended by inserting "High mobility multipurpose wheeled vehicle;" after "M-1 tank Chassis;".

SEC. 205. The appropriation "Operation and Maintenance, Army" contained in the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-2/3) is amended by adding the following after "Championships": ": *Provided further,* That, of the funds appropriated in this paragraph, $50,000,000 shall be available only for procurement for the Extended Cold Weather Clothing System (ECWCS) unless $50,000,000 of ECWCS is procured by the Army Stock Fund during fiscal year 1989".

Wages. Government organization and employees.

SEC. 206. The Secretary of Defense may, in conjunction with the Office of Personnel Management, conduct a test program to adjust pay rates to reflect local prevailing rates of pay for civilian employees in the following health care occupations: nurse, physician assistant, medical records librarian, medical laboratory technician, and radiology technician.

SEC. 207. Section 8037 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-23), is amended by striking out "39 individuals" and inserting in lieu thereof "42 individuals".

Disaster assistance. Texas.

SEC. 208. Within funds available to the Department of Defense, the Secretary of Defense shall transfer or otherwise make available funds as necessary to accommodate repair of real property, aircraft, and other Department of Defense assets damaged during the storm at Fort Hood, Texas, on May 13, 1989: *Provided,* That funds made available pursuant to this section shall be in accordance with established authorities and procedures.

CHAPTER III

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

GENERAL PROVISIONS

SEC. 301. None of the funds available to the Department of the Interior may be used to place on the National Register of Historic Places the Al Capone House at 7244 South Prairie Avenue, Chicago, Illinois.

Public buildings and grounds. Historic preservation.

Sec. 302. The King Center and the National Park Service are authorized to locate an additional parking site for the Martin Luther King National Historic Site within the National Historic Site and Preservation District Boundary in accordance with Federal and State preservation regulations, in lieu of the vacant lot on the north side of Irwin between Jackson and Boulevard as specified in Public Law 100-202.

CHAPTER IV

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

For the settlement of promissory notes issued to the Secretary of the Treasury, $10,770,941, to remain available until expended, together with such sums as may be necessary for the payment of interest due under the terms and conditions of such notes.

GENERAL PROVISIONS

102 Stat. 2148.

Sec. 401. Section 312 of Public Law 100-457 is amended by deleting "$276,000" and inserting in lieu thereof "$300,000".

New York. Bridges.

Sec. 402. Notwithstanding any other provision of law, the New York State Bridge Authority shall have the authority to collect tolls on the Newburgh-Beacon Bridge and to utilize the revenue therefrom for the construction and reconstruction of and for the costs necessary for the proper maintenance and operation of any bridges and facilities under the jurisdiction of such Authority and for the payment of debt service on any of the Authority's obligations issued in connection therewith.

102 Stat. 2154.

Section 341 of Public Law 100-457 is amended by deleting "2" and inserting in lieu thereof "4".

CHAPTER V

DEPARTMENT OF THE TREASURY

United States Customs Service

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

102 Stat. 1724.

Under this heading in the Treasury Department Appropriations Act, 1989, Public Law 100-440, after the words, "*Provided*, That", insert "with the exception of the transfer of two E2C aircraft to the United States Coast Guard,".

United States Secret Service

SALARIES AND EXPENSES

Funds appropriated under this heading in the Treasury, Postal Service, and General Government Appropriations Act, fiscal year 1989, Public Law 100-440, for construction of barriers at the south end of the White House shall remain available until expended.

Department of the Treasury—General Provisions

Section 103 under this heading in the Treasury Department Appropriations Act, 1989 (Public Law 100-440) is amended by striking "1 per centum" and inserting in lieu thereof "2 per centum". 102 Stat. 1727.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Administration

SALARIES AND EXPENSES

Notwithstanding any other provision of law, for an additional amount for "Salaries and expenses", for grants to the Popular Democratic Party, the New Progressive Party, and the Puerto Rican Independence Party of the Commonwealth of Puerto Rico, $1,500,000, to remain available until the sine die adjournment of the One Hundred First Congress: *Provided*, That grants shall be made to each such party in equal amounts, not to exceed $500,000 each: *Provided further*, That such funds shall be made available for necessary expenses incurred after March 1, 1989, to each such party to participate in the legislative process involving the future political status of Puerto Rico, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, and supplies and materials and other related services, and for administrative costs: *Provided further*, That under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the financial transactions made by each such party with such funds: *Provided further*, That such funds may not be used directly or indirectly to finance the campaigns of candidates for public office.

OTHER INDEPENDENT AGENCIES

Office of Personnel Management

SALARIES AND EXPENSES

Amounts made available under this heading in the Independent Agencies Appropriations Act, 1989 (Public Law 100-440), which are to be transferred from the Trust Funds for implementing the recordkeeping system of the Federal Employees' Retirement System, shall remain available until expended.

General Services Administration

ADMINISTRATIVE PROVISION

36 USC 1406 note.
Public buildings and grounds.
District of Columbia.

Notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall transfer to the administrative jurisdiction of the Holocaust Memorial Council (Council), without consideration, the Auditors West Building (Annex 3) located at Raoul Wallenberg Place and Independence Avenue Southwest, Washington, District of Columbia.

Historic preservation.

Prior to such transfer of jurisdiction to the Council, the Council shall agree to perform all necessary repairs and alterations to the Auditors West Building so as to renovate the exterior of the Auditors West Building in a manner consistent with preservation of the historic architecture of the building, and to preserve the structural integrity of the building. The Council, prior to such transfer, shall furnish to the Administrator, for his approval, a plan detailing the repairs and alterations proposed, dates for completion of the work, and funding availability.

In the event the Council ceases to exist, administrative jurisdiction of the Auditors West Building (Annex 3) shall revert to the General Services Administration.

Federal Election Commission

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $250,000, to be derived by transfer from "Expenses, Presidential Transition", General Services Administration.

General Services Administration

FEDERAL BUILDINGS FUND

Sec. 201. (a) Notwithstanding any other provision of law, the General Services Administration is hereby authorized to purchase, from annual funds available in the Federal Buildings Fund in fiscal year 1989, such additional furniture and equipment as may be necessary, not to exceed $1,500,000, for the National Oceanic and Atmospheric Administration to relocate to the Silver Spring, Maryland Metro Center.

(b) The National Oceanic and Atmospheric Administration will reimburse the General Services Administration for such expenditures in equal amounts over a period of two years, beginning in fiscal year 1990.

CHAPTER VI

DEPARTMENT OF VETERANS AFFAIRS

General Operating Expenses

The costs of external contract audits shall be charged to "Construction, major projects", "Construction, minor projects", and the "Supply fund", as appropriate, and be made retroactive to October 1, 1988.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Secretary of Housing and Urban Development may make amounts reserved or obligated under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) for particular projects under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), available as subsidy amounts for such projects under section 202(h)(4) of such Act.

RENTAL HOUSING ASSISTANCE

Such sums as may be necessary are hereby approved to implement the authority conferred on the Secretary of Housing and Urban Development by section 236(r) of the National Housing Act to provide interest reductions and rental assistance payments: *Provided*, That notwithstanding the second sentence of such section 236(r), an application shall be eligible for assistance under such section if the mortgagee submits an application within five hundred and forty-eight days after the effective date of this Act.

12 USC 1715z-1 note.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

Funds under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 shall be made available for a special project under section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) to the Hawaii State Department of Hawaiian Home Lands, for infrastructure development on Hawaiian Home Lands, notwithstanding the restrictions on alienation applicable to such lands.

INDEPENDENT AGENCIES

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

The limitation carried under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 on program development and management in fiscal year 1989 is increased by $750,000.

GENERAL PROVISION

Section 406 under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989 (Public Law 100-404) is amended by striking out "the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation" and inserting in lieu thereof "any officer or employee authorized such transportation under title 31, United States Code, section 1344".

102 Stat. 1038.

TITLE III—TECHNICAL ENROLLMENT CORRECTIONS

SEC. 301. The appropriation Operation and Maintenance, Navy as contained in the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 102 Stat. 2270-3) is amended by striking out ", of which $60,000,000 shall be transferred to the Coast Guard".

SEC. 302. In Public Law 100-461, "An Act making appropriations for Foreign Operations, Export Financing, and Related Programs for the fiscal year ending September 30, 1989, and for other purposes", in TITLE V—GENERAL PROVISIONS, following the last "." in section 572, insert the following:

102 Stat. 2268-44.

"RESOLUTION OF JAPANESE BEETLE PROBLEM"

"SEC. 573. None of the funds appropriated by this Act may be used to fund any programs to assist in solving the Japanese beetle problem in the Azores. It is the sense of the Congress that this problem was created by the Department of Defense which should fund any program to resolve it.".

SEC. 303. In Public Law 100-446, "An Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Navajo and Hopi Indian Relocation Commission" delete the sum "$27,323,000" and insert in lieu thereof "$27,373,000". 102 Stat. 1818.

SEC. 304. In Public Law 100-460, "An Act making appropriations for Rural Development, Agriculture, and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "National Agricultural Library", delete the sum "$13,268,000" and insert in lieu thereof "$14,268,000". 102 Stat. 2236.

SEC. 305. In Public Law 100-457, "An Act making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1989, and for other purposes", in the account titled "Urban Mass Transportation Administration, Interstate Transfer Grants-Transit" delete the sum "$2,000,000,000" and insert in lieu thereof "$200,000,000". 102 Stat. 2142.

TITLE IV—GENERAL PROVISIONS

SEC. 401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Communications and telecommunications.

SEC. 402. Notwithstanding section 1346 of title 31, United States Code, or section 608 of Public Law 100-440, funds made available for fiscal year 1989 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

Alcohol and alcoholic beverages. Labeling.

SEC. 403. No funds appropriated under this Act or any other Act shall be available to the Bureau of Alcohol, Tobacco and Firearms for the enforcement of section 204 of the Alcoholic Beverage Labeling Act of 1988, title VIII of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 481), and regulations issued thereunder, as it relates to malt beverage glass returnable bottles of 12 ounces or less to which labels have been permanently affixed by means of painting and heat treatment, which were ordered on or before April 21, 1989: *Provided*, That the closure for such bottles contain the warning statement: *And provided further*, That any new returnable glass bottles ordered after April 21, 1989, will be in full compliance with section 204 and the regulations issued thereunder.

Drugs and drug abuse. Housing.

SEC. 404. (a) Within 6 months of the enactment of this Act and after granting notice and opportunity to comment to affected tenants, the Secretary shall review the drug-related eviction procedures of all jurisdictions having a Public Housing Authority for the purpose of determining whether such procedures meet Federal due process standards.

(b) Upon conclusion of the review mandated by subsection (a), if the Secretary determines that due process standards are met for a jurisdiction, the Secretary shall issue that jurisdiction a waiver of the procedures required in section 6(k) of the United States Housing Act of 1937, 42 U.S.C. 1437d(k), for evictions involving drug-related criminal activity which threatens the health and safety of other tenants of public housing authority employees as long as evictions of a household member involved in drug-related criminal activity shall not affect the right of any other household member who is not involved in such activity to continue tenancy.

Reports.

(c) Within 60 days of completion of the review mandated by subsection (a), the Secretary shall report to Congress the findings of the review including all waivers granted in accordance with subsection (b).

SEC. 405. SENSE OF THE SENATE REGARDING THE APPOINTMENT OF A NEW ADMINISTRATOR OF THE PANAMA CANAL COMMISSION.—It is the sense of the Senate that the President should not appoint a new Administrator of the Panama Canal Commission unless and until he certifies to Congress that the ruling government of Panama is democratically elected according to procedures specified in the Constitution of Panama providing for a civilian government in control of all Panamanian military and paramilitary forces.

SEC. 406. RESTORATION OF EASTERN AIRLINES.—

(a) FINDINGS.—The Senate finds that—

(1) the operations of Eastern Airlines have been substantially shut down since March 4, 1989, by a strike by the International Association of Machinists with the support of pilots and flight attendant unions;

(2) Eastern Airlines filed a petition under chapter 11 of title 11, United States Code, on March 9, 1989;

(3) Texas Air Corporation, which controls Eastern Airlines, had negotiated for the sale of Eastern;

(4) the organized employees of Eastern had agreed to provide a potential new owner with substantial wage concessions;

(5) the deregulation of the airline industry by Congress was predicated on the anticipated continued existence of strong, independent airlines, such as Eastern Airlines;

(6) the Bankruptcy Court has the power to appoint an independent trustee to manage Eastern's return to operation during the interim period, leading up to the consummation of the sale agreement and transfer of control to a potential owner; and

(7) the return of Eastern Airlines to full operation is in the public interest and in the best interest of the creditors, employees, and customers of Eastern as well as the economies of the communities, States and regions of the United States that Eastern serves.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Bankruptcy Court and all involved parties should facilitate the prompt and safe restoration of Eastern Airlines to full operations through all appropriate action, which may or may not include appointment of an independent trustee, pending sale of the company.

SEC. 407. RESPONSIBILITY FOR NUCLEAR, CHEMICAL, BIOLOGICAL, AND MISSILE NONPROLIFERATION.—

(a) RESPONSIBILITIES.—The responsibilities of the Under Secretary of State for Coordinating Security Assistance Policy shall include—

(1) coordinating United States diplomatic efforts to obtain the agreement of all appropriate countries to a missile technology control regime encompassing chemical, biological, and nuclear capable missiles; and

(2) coordinating policies within the United States Government on strategies for restricting the export to foreign countries of components of missiles which are capable of carrying nuclear, chemical, or biological weapons.

(b) REPORT REQUESTED.—The Secretary of State shall submit within ninety days of the date of enactment of this Act to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the Administration strategy for dealing with the missile proliferation issue, and specifying the steps taken to ensure that adequate resources will be allocated for that purpose.

(c) CONTENTS OF REPORT.—The report required in subsection (b) shall contain, but is not limited to—

(1) a discussion of efforts that can be made to strengthen the Missile Technology Control Regime to restrict the flow of Western missile hardware and knowhow;

(2) a discussion of ways to strengthen international arrangements, including the formation of a new international organization, to monitor missile-related exports and compliance with missile nonproliferation efforts; and

(3) a discussion of how incentives and threats of sanctions can be used to win the cooperation of more nations in controlling missile proliferation.

SEC. 408. TEMPORARY SUSPENSION OF RIGHT TO REPURCHASE STINGER MISSILES.—Notwithstanding section 573(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, and section 566(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, the United States hereby suspends its obligation to repurchase STINGER antiaircraft missiles from Bahrain until October 31, 1989.

SEC. 409. EXEMPTION PROVIDED FOR NATIONAL COMMISSION ON CHILDREN FROM CERTAIN PROVISIONS OF TITLE 5.—Section 1139 of the Social Security Act (42 U.S.C. 1320b-9) is amended by striking subsection (f) and inserting in lieu thereof the following new subsection:

"(f)(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.".

Aircraft and air carriers.

SEC. 410. It is the sense of the Senate that the Secretary of Transportation should conduct a review of the potential impact of highly leveraged acquisitions of control of United States air carriers. The potential impacts to be addressed in such review should include the effects of increased expenses associated with increased debt on carriers' ability to—

(i) modernize their fleets;

(ii) make necessary expenditures for maintenance;

(iii) survive economic downturns (and the effect on competition among air carriers if some do not survive);

(iv) provide small community services;

(v) compete internationally against foreign airlines; and

(vi) make and/or keep the financial commitments to airport projects necessary to expand capacity and improve safety, and meet the future needs of their employees with regard to such matters as salaries, benefits, pensions, and job security and growth.

Pursuant to the conclusions of such review, the Secretary should make a report to the Congress and include in such report an assessment with respect to any major air carrier that is the object of a highly leveraged buy-out. Reports.

SEC. 411. The Secretary of Agriculture may use his section 32 authority in appropriate instances to stabilize the apple market and to satisfy the request of recipient agencies.

This Act may be cited as the "Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989".

Approved June 30, 1989.

LEGISLATIVE HISTORY—H.R. 2402:

CONGRESSIONAL RECORD, Vol. 135 (1989):
 May 18, considered and passed House; considered and passed Senate, amended.
 May 24, House disagreed to Senate amendment.
 June 22, Senate receded; reconsidered and passed Senate, amended.
 June 23, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
 June 30, Presidential statement.

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Public Law 101-46
101st Congress

An Act

June 30, 1989
[S. 694]

To extend title I of the Energy Policy and Conservation Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION.

Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

42 USC 6251. (1) in section 171, by striking out "June 30, 1989" each place it appears and inserting in lieu thereof "April 1, 1990"; and

50 USC app. 2071 notes. (2) in section 104(b)(1), by striking out "June 30, 1989" and inserting in lieu thereof "April 1, 1990".

42 USC 6240 note.

SEC. 2. STUDY AND REPORT ON OIL LEASING AND OTHER ARRANGEMENTS TO FILL SPR TO ONE BILLION BARRELS.

(a) IN GENERAL.—The Secretary of Energy shall carry out a study on potential financial arrangements (including long-term leasing of crude oil and storage facilities) that could be used to provide additional, alternative means of financing the filling of the Strategic Petroleum Reserve to one billion barrels. In carrying out such study, the Secretary shall—

(1) assume that the legislation that extends title I of the Energy Policy and Conservation Act beyond April 1, 1990, will require the Secretary to amend, by July 1, 1990, the Strategic Petroleum Reserve Plan to provide plans for completion of storage of one billion barrels of petroleum products in the Reserve at an average fill-rate of at least seventy-five thousand barrels per day;

(2) consider a broad array of such arrangements;

(3) consult with persons in the private sector who might be interested in leasing crude oil or storage facilities;

(4) initiate, in cooperation with the Department of State, to the extent consistent with the interests of the United States, discussions with representatives of foreign governments and other entities as to the types of financial arrangements (including crude oil leasing arrangements) that would interest them; and

(5) produce preliminary written solicitations for proposed alternative financial arrangements (including long-term leasing of crude oil and storage facilities) to assist in filling the Strategic Petroleum Reserve to one billion barrels.

(b) REPORTS.—(1) The Secretary shall, no later than October 15, 1989, transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an interim report containing—

(A) an enumeration of the specific resources (both personnel and funding) committed to the study described in subsection (a);

(B) a description of the progress made toward completing the study; and

(C) any preliminary findings and conclusions made by such date.

(2) The Secretary shall, no later than February 1, 1990, transmit to such committees a copy of the solicitations described in paragraph (5) of subsection (a) and a final report containing the findings and conclusions of the study carried out under this section, together with a draft of the legislative changes that would be necessary to authorize the most significant alternative financial arrangements studied by the Secretary (including long-term leasing of crude oil and storage facilities) and recommendations of the Secretary with respect to the need for and desirability of such financial arrangements (including long-term leasing of crude oil and storage facilities).

(c) ENFORCEMENT.—Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of pursuant to any contract or other agreement entered into or extended on or after February 1, 1990, other than to the Strategic Petroleum Reserve (either directly or by exchange) until the Secretary of Energy has transmitted the solicitations and the final report described in subsection (b)(2) (including the legislative changes and recommendations described in such subsection) to the committees described in subsection (b)(1), except for the purposes provided in section 160(d)(2) of the Energy Policy and Conservation Act.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S. 694 (H.R. 2539):

HOUSE REPORTS: No. 101-86 accompanying H.R. 2539 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-33 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
May 31, considered and passed Senate.
June 20, H.R. 2539 considered and passed House; proceedings vacated and S. 694, amended, passed in lieu.
June 23, Senate concurred in House amendment with an amendment.
June 28, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
June 30, Presidential statement.

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Public Law 101-47
101st Congress

An Act

June 30, 1989
[S. 1077]

To authorize the President to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration.

49 USC 106 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Admiral James B. Busey to the Office of Administrator of the Federal Aviation Administration. Admiral Busey's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Busey shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, Admiral Busey shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S. 1077 (H.R. 2444):

HOUSE REPORTS: No. 101-108 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 101-56 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 21, considered and passed Senate.
June 22, considered and passed House.

○

Public Law 101-48
101st Congress

An Act

June 30, 1989
[S. 1180]

To authorize the President to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration.

42 USC 2472 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 202(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2472(a)), or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint Rear Admiral Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration. Admiral Truly's appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he holds as an officer on the retired list of the United States Navy, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, Admiral Truly shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Navy, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Navy, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

Sec. 2. In the performance of his duties as Administrator of the National Aeronautics and Space Administration, Admiral Truly shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Navy.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Offices of Administrator and Deputy Administrator of the National Aeronautics and Space Administration.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S. 1180:

SENATE REPORTS: No. 101-57 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 21, considered and passed Senate.
June 22, considered and passed House.

○

Public Law 101-49
101st Congress

An Act

June 30, 1989

[S. 1184]

To allow the obsolete destroyer United States ship Edson (DD 946) to be transferred to the Intrepid Sea-Air-Space Museum in New York before the expiration of the otherwise applicable sixty-day congressional review period.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete destroyer United States ship Edson (DD 946) to the Intrepid Sea-Air-Space Museum, a nonprofit corporation organized under the laws of the State of New York.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S. 1184:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 14, considered and passed Senate.
June 28, considered and passed House.

○

Public Law 101-50
101st Congress

Joint Resolution

June 30, 1989
[S.J. Res. 96]

Designating July 2, 1989, as "National Literacy Day".

Whereas literacy is a necessary tool for survival in our society;

Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are twenty-seven million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas illiteracy is growing rapidly, as two million three-hundred thousand persons, including one million two-hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;

Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;

Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;

Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;

Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 per centum illiteracy rate among black youths is expected to increase to 50 per centum by 1990;

Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;

Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;

Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1989, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved June 30, 1989.

LEGISLATIVE HISTORY—S.J. Res. 96:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
June 29, considered and passed House.

○

Public Law 101-51
101st Congress

An Act

To redesignate the Federal hydropower generating facilities located at Dam B on the Neches River at Town Bluff, Texas, as the "Robert Douglas Willis Hydropower Project".

July 6, 1989
[H.R. 923]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION OF HYDROPOWER FACILITIES.

The Federal hydropower generating facilities located at Dam B on the Neches River at Town Bluff, Texas, is redesignated as the "Robert Douglas Willis Hydropower Project".

SEC. 2. REFERENCES.

Any reference in a law, rule, map, document, record, or other paper of the United States to the Federal hydropower generating facilities located at Dam B on the Neches River at Town Bluff, Texas, shall be deemed to be a reference to the "Robert Douglas Willis Hydropower Project".

Approved July 6, 1989.

LEGISLATIVE HISTORY—H.R. 923:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 11, considered and passed House.
June 23, considered and passed Senate.

○

Public Law 101-52
101st Congress

Joint Resolution

July 6, 1989
[H.J. Res. 132]

To designate the second Sunday in October of 1989 as "National Children's Day".

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1989 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved July 6, 1989.

LEGISLATIVE HISTORY—H.J. Res. 132 (S.J. Res. 15):

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 9, considered and passed House.
June 22, considered and passed Senate.

○

Public Law 101-53
101st Congress

An Act

July 6, 1989
[H.R. 2119]

To authorize the exchange of certain Federal public land in Madison County, Illinois.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCHANGE OF FEDERAL PUBLIC LAND.

(a) EXCHANGE OF LAND.—Subject to section 2, at such time as the Blue Tee Corporation conveys all right, title, and interest in and to the land described in subsection (b)(1) to the United States of America, the Secretary of the Army (hereinafter "Secretary") shall convey all right, title, and interest in and to the land described in subsection (b)(2) to the Blue Tee Corporation.

(b) DESCRIPTION OF LANDS.—The lands referred to in subsection (a) are the following:

(1) NON-FEDERAL LAND.—35.03 acres of land located in Madison County, Illinois, known as Government Tract Number 121 and owned by the Blue Tee Corporation.

(2) FEDERAL LAND.—58.64 acres situated in Madison County, Illinois, known as Government Tract Number 122 and administered by the United States Army Corp of Engineers, which is constructing the Melvin Price Lock and Dam Project on this land.

SEC. 2. CONDITIONS OF EXCHANGE.

The exchange of land authorized by section 1 shall be subject to the following conditions:

(1) DEEDS.—

(A) FEDERAL LAND.—The instrument of conveyance used to convey the land described in section 1(b)(2) to the Blue Tee Corporation shall contain such reservations, terms, and conditions as the Secretary of the Army considers necessary to allow the United States to construct, operate, and maintain the Melvin Price Lock on that land.

(B) NON-FEDERAL LAND.—The conveyance of the land described in section 1(b)(1) to the Secretary of the Army shall be by a warranty deed acceptable to the Secretary.

(2) REMOVAL OF IMPROVEMENTS.—The Blue Tee Corporation may remove any improvements on the land described in section 1(b)(1). Furthermore, the Secretary, at his discretion, may require the Blue Tee Corporation to remove any improvements on the land described in section 1(b)(1). In either case, the Blue Tee Corporation shall hold the United States harmless from liability, and the United States shall not incur any cost associated with the removal or relocation of such improvements.

(3) TIME LIMIT FOR EXCHANGE.—The land exchange authorized by section 1(a) must be completed within 2 years after the date of enactment of this Act.

(4) LEGAL DESCRIPTION.—The Secretary shall provide the legal description of the lands described in section 1(b). That legal description shall be used in the instruments of conveyance of such lands.

SEC. 3. VALUE OF PROPERTIES.

If the appraised fair market value, as determined by the Secretary, of the land conveyed to the Blue Tee Corporation by the Secretary under section 1(a) exceeds the appraised fair market value, as determined by the Secretary, of the land conveyed to the United States by the Blue Tee Corporation under section 1(a), the Blue Tee Corporation shall pay the difference to the United States.

Approved July 6, 1989.

LEGISLATIVE HISTORY—H.R. 2119:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 11, considered and passed House.
June 23, considered and passed Senate, amended.
June 28, House concurred in Senate amendments.

○

Public Law 101-54
101st Congress

Joint Resolution

July 7, 1989
[H.J. Res. 276]

Designating September 14, 1989, as "National D.A.R.E. Day".

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a semester-long program that teaches fifth and sixth grade children how to resist pressure to experiment with drugs and alcohol;

Whereas the D.A.R.E. program is also provided to kindergarten and junior high school students and their parents;

Whereas D.A.R.E. targets children when they are most vulnerable to tremendous peer pressure to try drugs and alcohol and teaches the skills to make positive decisions and resist pressure to engage in negative behaviors;

Whereas more than 1,200 communities in 48 States now conduct the D.A.R.E. program in their local schools, and a pilot program has been implemented for use internationally in the Department of Defense Dependent Schools;

Whereas almost 3 million students have been reached through D.A.R.E.;

Whereas because school children are frequently much more sophisticated about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers with direct experience in cases involving criminal activity and ruined lives caused by substance abuse;

Whereas each police officer who teaches the D.A.R.E. program completes an 80-hour training course that includes instruction in teaching techniques, officer-school relationship, development of self-esteem, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps students understand self-image, recognize stress and manage it without taking drugs, analyze and resist media presentations about alcohol and drugs, evaluate risk-taking behavior, resist gang pressure, apply decision making skills, and evaluate the consequences of the choices available to them;

Whereas independent research shows that the D.A.R.E. program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol, by contributing to improved study habits and grades and decreased vandalism and gang activity and by generating greater respect for police officers; and

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to what is one of the most difficult problems facing our young people today, namely drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 14, 1989, is designated as "National D.A.R.E. Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved July 7, 1989.

LEGISLATIVE HISTORY—H.J. Res. 276 (S.J. Res. 121):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 6, considered and passed House.
June 22, considered and passed Senate.

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Public Law 101-55
101st Congress

Joint Resolution

July 7, 1989
[H.J. Res. 298]

Designating July 14, 1989, as "National Day To Commemorate the Bastille Day Bicentennial".

Whereas the independence of the United States was achieved with significant assistance from France and from individual citizens of France;

Whereas the ideals of liberty and freedom which animated the people of the United States during the American Revolution were shared by many of the people of France and are held sacred by both peoples today;

Whereas the year 1789 was of particular significance in the history of both France and the United States, marking the opening chapter of the French Revolution and the concluding chapter of the American Revolution;

Whereas on July 14, 1789, the people of France liberated the hated Bastille prison, thus signifying the triumph of liberty over tyranny;

Whereas within a period of 31 days, the National Assembly of France approved the Declaration of the Rights of Man and the Citizen on August 26, 1789, and the Congress of the United States approved the Bill of Rights on September 25, 1789, thereby proclaiming the sanctity of human rights on both sides of the Atlantic Ocean and guaranteeing them for future generations; and

Whereas France and the United States remain fully committed to the principles of the Declaration of the Rights of Man and the Citizen and the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 14, 1989, is designated as "National Day To Commemorate the Bastille Day Bicentennial", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved July 7, 1989.

LEGISLATIVE HISTORY—H.J. Res. 298:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 20, considered and passed House.
June 22, considered and passed Senate.

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Public Law 101-56
101st Congress

An Act

To amend the Computer Matching and Privacy Protection Act of 1988 to delay the effective date of the Act for existing agency matching programs.

July 19, 1989
[H.R. 2848]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Computer Matching and Privacy Protection Act Amendments of 1989.
5 USC 552a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act Amendments of 1989".

SEC. 2. EFFECTIVE DATE DELAYED FOR EXISTING AGENCY MATCHING PROGRAMS.

5 USC 552a note.

(a) IN GENERAL.—Section 10 of the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 522a note) is amended by adding at the end the following new subsection:

"(c) EFFECTIVE DATE DELAYED FOR EXISTING PROGRAMS.—In the case of any matching program (as defined in section 552a(a)(8) of title 5, United States Code, as added by section 5 of this Act) in operation before June 1, 1989, the amendments made by this Act (other than the amendments described in subsection (b)) shall take effect January 1, 1990, if—

"(1) such matching program is identified by an agency as being in operation before June 1, 1989; and

"(2) such identification is—

"(A) submitted by the agency to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Office of Management and Budget before August 1, 1989, in a report which contains a schedule showing the dates on which the agency expects to have such matching program in compliance with the amendments made by this Act, and

"(B) published by the Office of Management and Budget in the Federal Register, before September 15, 1989.".

5 USC 552a note.

(b) CONFORMING AMENDMENT.—Section 10(a) of such Act is amended by striking "Except as provided in subsection (b)" and inserting "Except as provided in subsections (b) and (c)".

Approved July 19, 1989.

LEGISLATIVE HISTORY—H.R. 2848:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 11, considered and passed House.
July 13, considered and passed Senate.

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Public Law 101-57
101st Congress

Joint Resolution

To designate the week of September 10, 1989, through September 16, 1989, as "National Check-Up Week".

July 21, 1989
[S.J. Res. 95]

Whereas more than 34,000,000 Americans are hospitalized each year;

Whereas nearly 66,000,000 Americans are afflicted with some form of heart or blood vessel disease;

Whereas approximately 34,000,000 Americans between the ages 24 and 74 suffer from obesity;

Whereas more than 60,000,000 Americans suffer from high blood pressure;

Whereas an estimated 25 percent of adult Americans have elevated blood cholesterol levels;

Whereas annual medical check-ups can decrease the number of hospitalizations, reduce the likelihood of a serious illness or premature death, and curb escalating health care costs; and

Whereas annual medical screening may reveal previously undetected high blood pressure, high blood cholesterol, cancer, and obesity-related ailments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 10 through September 16, 1989, is designated as "National Check-Up Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved July 21, 1989.

LEGISLATIVE HISTORY—S.J. Res. 95:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
June 29, considered and passed House.

○

"DECADE OF THE BRAIN"

29-139 O - 89 (58)

Public Law 101-58
101st Congress

Joint Resolution

July 25, 1989
[H.J. Res. 174]

To designate the decade beginning January 1, 1990, as the "Decade of the Brain".

Whereas it is estimated that fifty million Americans are affected each year by disorders and disabilities that involve the brain, including the major mental illnesses; inherited and degenerative diseases; stroke; epilepsy; addictive disorders; injury resulting from prenatal events, environmental neurotoxins and trauma; and speech, language, hearing and other cognitive disorders;

Whereas it is estimated that treatment, rehabilitation and related costs of disorders and disabilities that affect the brain represents a total economic burden of $305,000,000,000 annually;

Whereas the people of the Nation should be aware of the exciting research advances on the brain and of the availability of effective treatment of disorders and disabilities that affect the brain;

Whereas a technological revolution occurring in the brain sciences, resulting in such procedures as positron emission tomography and magnetic resonance imaging, permits clinical researchers to observe the living brain noninvasively and in exquisite detail, to define brain systems that are implicated in specific disorders and disabilities, to study complex neuropeptides and behavior as well as to begin to learn about the complex structures underlying memory;

Whereas scientific information on the brain is amassing at an enormous rate, and the field of computer and information sciences has reached a level of sophistication sufficient to handle neuroscience data in a manner that would be maximally useful to both basic researchers and clinicians dealing with brain function and dysfunction;

Whereas advances in mathematics, physics, computational science, and brain imaging technologies have made possible the initiation of significant work in imaging brain function and pathology, modeling neural networks and simulating their dynamic interactions;

Whereas comprehending the reality of the nervous system is still on the frontier of technological innovation requiring a comprehensive effort to decipher how individual neurons, by their collective action, give rise to human intelligence;

Whereas fundamental discoveries at the molecular and cellular levels of the organization of the brain are clarifying the role of the brain in translating neurophysiologic events into behavior, thought, and emotion;

Whereas molecular biology and molecular genetics have yielded strategies effective in preventing several forms of severe mental retardation and are contributing to promising breakthroughs in the study of inheritable neurological disorders, such as Huntington's disease, and mental disorders, such as affective illnesses;

Whereas the capacity to map the biochemical circuitry of neurotransmitters and neuromodulators will permit the rational design of potent medications possessing minimal adverse effects that will act on the discrete neurochemical deficits associated with such disorders as Parkinson's disease, schizophrenia and Alzheimer's disease;

Whereas the incidence of neurologic, psychiatric, psychological, and cognitive disorders and disabilities experienced by older persons will increase in the future as the number of older persons increases;

Whereas studies of the brain and central nervous system will contribute not only to the relief of neurologic, psychiatric, psychological, and cognitive disorders, but also to the management of fertility and infertility, cardiovascular disease, infectious and parasitic diseases, developmental disabilities and immunologic disorders, as well as to an understanding of behavioral factors that underlie the leading preventable causes of death in this Nation;

Whereas the central nervous and immune systems are both signalling systems which serve the entire organism, and there are direct connections between the nervous and immune systems, and whereas studies of the modulatory effects of each system on the other will enhance our understanding of diseases as diverse as the major psychiatric disorders, acquired immune deficiency syndrome, and autoimmune disorders;

Whereas recent discoveries have led to fundamental insights as to why people abuse drugs, how abused drugs affect brain function leading to addiction, and how some of these drugs cause permanent brain damage;

Whereas studies of the brain will contribute to the development of new treatments that will curtail the craving for drugs, break the addictive effects of drugs, prevent the brain-mediated "high" caused by certain abused drugs, and lessen the damage done to the developing minds of babies, who are the innocent victims of drug abuse;

Whereas treatment for persons with head injury, developmental disabilities, speech, hearing, and other cognitive functions is increasing in availability and effectiveness;

Whereas the study of the brain involves the multidisciplinary efforts of scientists from such diverse areas as physiology, biochemistry, psychology, psychiatry, molecular biology, anatomy, medicine, genetics, and many others working together toward the common goals of better understanding the structure of the brain and how it affects our development, health, and behavior;

Whereas the Nobel Prize for Medicine or Physiology has been awarded to fifteen neuroscientists within the past twenty-five years, an achievement that underscores the excitement and productivity of the study of the brain and central nervous system and its potential for contributing to the health of humanity;

Whereas the people of the Nation should be concerned with research into disorders and disabilities that affect the brain, and should recognize prevention and treatment of such disorders and disabilities as a health priority; and

Whereas the declaration of the Decade of the Brain will focus needed government attention on research, treatment, and rehabilitation in this area: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the decade beginning January 1, 1990, hereby is designated the "Decade of the

Brain", and the President of the United States is authorized and requested to issue a proclamation calling upon all public officials and the people of the United States to observe such decade with appropriate programs and activities.

Approved July 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 174 (S.J. Res. 173):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 29, considered and passed House.
July 13, considered and passed Senate.

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Public Law 101-59
101st Congress

Joint Resolution

Designating January 7, 1990, through January 13, 1990, as "National Law Enforcement Training Week".

July 25, 1989
[S.J. Res. 137]

Whereas law enforcement training and sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property, and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training to the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 7, 1990, through January 13, 1990, is designated as "National Law Enforcement Training Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens, particularly the youth of this Nation, of the importance of law enforcement training and related disciplines.

Approved July 25, 1989.

LEGISLATIVE HISTORY—S.J. Res. 137:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
June 29, considered and passed House.

○

Public Law 101-60
101st Congress

An Act

To amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such Act.

July 26, 1989
[H.R. 1722]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Natural Gas Wellhead Decontrol Act of 1989. 15 USC 3301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Natural Gas Wellhead Decontrol Act of 1989".

SEC. 2. DEREGULATION OF FIRST SALES OF NATURAL GAS.

(a) INTERIM ELIMINATION OF CERTAIN MAXIMUM LAWFUL PRICES.—Section 121 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3331) is amended by adding at the end the following new subsection:

"(f) ADDITIONAL DECONTROL.—The provisions of subtitle A respecting the maximum lawful price for a first sale of natural gas shall cease to apply to natural gas described in paragraphs (1), (2), (3), and (4), as follows:

"(1) EXPIRED, TERMINATED, OR POST-ENACTMENT CONTRACTS.—In the case of natural gas to which no first sale contract applies on the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989, subtitle A shall not apply to any first sale of such natural gas delivered on or after the first day after such date of enactment.

"(2) EXPIRING OR TERMINATING CONTRACTS.—In the case of natural gas to which a first sale contract applies on the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989, but to which such contract ceases to apply after such date of enactment, subtitle A shall not apply to any first sale of such natural gas delivered after such contract ceases to apply.

"(3) CERTAIN RENEGOTIATED CONTRACTS.—In the case of natural gas to which a first sale contract applies on the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989, where the parties have expressly agreed in writing after March 23, 1989, that all or part of the gas sold under such contract shall not be subject to any maximum lawful price under subtitle A after a specified date, subtitle A shall not apply to any first sale of the natural gas subject to such express agreement delivered on or after the date so specified, except that subtitle A shall not cease to apply to any such natural gas pursuant to this paragraph before the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989.

"(4) NEWLY SPUDDED WELLS.—In the case of natural gas produced from a well the surface drilling of which began after the date of enactment of the Natural Gas Wellhead Decontrol Act of 1989, subtitle A shall not apply to any first sale of such natural gas delivered on or after May 15, 1991.

For purposes of this subsection, a first sale contract applies to natural gas when the seller has a contractual obligation to deliver such natural gas under such contract.".

Effective date.

(b) PERMANENT ELIMINATION OF WELLHEAD PRICE CONTROLS.—Title I of the Natural Gas Policy Act of 1978 (15 U.S.C. 3311-3333) is repealed, effective on January 1, 1993.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS EFFECTIVE UPON ENACTMENT.—The Natural Gas Policy Act of 1978 is amended as follows:

(1) The table of contents in section 1(b) (15 U.S.C. 3301 note) is amended—

(A) in the item relating to section 315, by striking "Contract duration; filing" and inserting in lieu thereof "Filing"; and

(B) by striking the item relating to section 507.

(2) Section 315 (15 U.S.C. 3375) is amended—

(A) in the section heading, by striking "CONTRACT DURATION;"; and

(B) by striking "(a) CONTRACT DURATION.—" and all that follows through "(b) FILING OF CONTRACTS AND ANCILLARY AGREEMENTS.—".

(3) Section 502(d) (15 U.S.C. 3412(d)) is repealed.

(4) Section 504(b) (15 U.S.C. 3414(b)) is amended—

(A) in paragraph (1), by striking "paragraphs (2) and (3)" and inserting in lieu thereof "paragraph (2)";

(B) by striking paragraph (3); and

(C) in paragraph (4), by striking "paragraph (1), (2), or (3)" and inserting in lieu thereof "paragraph (1) or (2)".

(5) Section 506(d) (15 U.S.C. 3416(d)) is repealed.

(6) Section 507 (15 U.S.C. 3417) is repealed.

(7) Section 601 (15 U.S.C. 3431) is amended—

(A) by amending subsection (a)(1)(E) to read as follows:

"(E) CERTAIN ADDITIONAL NATURAL GAS.—For purposes of section 1(b) of the Natural Gas Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply solely by reason of any first sale of natural gas which is committed or dedicated to interstate commerce as of the day before the date of the enactment of this Act and which is not subject to a maximum lawful price under subtitle A of title I by reason of section 121(f), effective as of the date such gas ceases to be subject to such maximum lawful price."; and

(B) in subsection (c)(2), by striking "purchase of natural gas" and all that follows through "under section 202)," and inserting in lieu thereof "purchase of natural gas if, under subsection (b) of this section, such amount is deemed to be just and reasonable for purposes of sections 4 and 5 of such Act,".

(b) AMENDMENTS EFFECTIVE ON JANUARY 1, 1993.—Effective on January 1, 1993, the Natural Gas Policy Act of 1978 is amended as follows:

(1) The table of contents in section 1(b) (15 U.S.C. 3301 note) is amended by striking the items relating to title I and section 503.

(2) Section 312(c) (15 U.S.C. 3372(c)) is amended by striking "any natural gas" and all that follows through "(3)" and inserting in lieu thereof "any natural gas".

(3) Section 313 (15 U.S.C. 3373) is amended by inserting ", as such section was in effect on January 1, 1989" after "section 107(c)" both places it appears, and after "section 105(b)(3)(B)" both places it appears.

(4) Section 501(c) (15 U.S.C. 3411(c)) is repealed.

(5) Section 503 (15 U.S.C. 3413) is repealed.

(6) Section 504(a) (15 U.S.C. 3414(a)) is amended by striking "person" and all that follows through "to otherwise" and inserting in lieu thereof "person to".

(7) Section 601 (15 U.S.C. 3431) is amended—

(A) by amending subsection (a)(1)(A) to read as follows:

"(A) APPLICATION TO FIRST SALES.—For purposes of section 1(b) of the Natural Gas Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply to any natural gas solely by reason of any first sale of such natural gas.";

(B) by striking subparagraphs (B) and (E) of subsection (a)(1);

(C) by redesignating subparagraphs (C) and (D) of subsection (a)(1) as subparagraphs (B) and (C), respectively;

(D) in subsection (a)(1)(C) (as redesignated by subparagraph (C) of this paragraph), by striking "subparagraph (A), (B), or (C)" and inserting in lieu thereof "subparagraph (A) or (B)";

(E) by amending subsection (b)(1)(A) to read as follows:

"(A) FIRST SALES.—Except as otherwise provided in this subsection, for purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any first sale of natural gas shall be deemed to be just and reasonable."; and

(F) in subsection (b)(1)(D), by striking "if such amount does not exceed the applicable maximum lawful price established under title I of this Act".

(8) Section 602(a) (15 U.S.C. 3432(a)) is amended—

(A) by striking "AUTHORITY TO PRESCRIBE LOWER" and inserting in lieu thereof "AUTHORITY TO PRESCRIBE"; and

(B) by striking "which does not exceed the applicable maximum lawful price, if any, under title I of this Act".

Approved July 26, 1989.

LEGISLATIVE HISTORY—H.R. 1722 (S. 783):

HOUSE REPORTS: No. 101-29 (Comm. on Energy and Commerce) and No. 101-100 (Comm. of Conference).
SENATE REPORTS: No. 101-38 accompanying S. 783 (Comm. on Energy and Natural Resources) and No. 101-39 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 17, considered and passed House.
June 8, 9, 13, 14, considered and passed Senate, amended.
June 15, House disagreed to Senate amendments.
June 22, Senate agreed to conference report.
July 12, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
July 26, Presidential statement.

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Public Law 101-61
101st Congress

Joint Resolution

July 26, 1989
[S.J. Res. 85]

To designate the week of July 24 to July 30, 1989, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War".

Whereas on June 25, 1950, the Communist army of North Korea invaded and attacked South Korea, initiating the Korean war;

Whereas the week of July 24 to July 30, 1989, includes July 27, the thirty-sixth anniversary of the cease-fire agreement that ended the active combat of the Korean war;

Whereas the Korean war was brought to an end primarily through the efforts of the United States Armed Forces;

Whereas for the first and only time in history a United Nations command was created, with the United States as the executive agent, to repel this invasion and preserve liberty for the people of the Republic of Korea;

Whereas, in addition to the United States and the Republic of Korea, twenty other member nations provided military contingents to serve under the United Nations banner;

Whereas, after three years of active hostilities, the territorial integrity of the Republic of Korea was restored, and the freedom and independence of its people are assured even to this date;

Whereas over five million seven hundred thousand American servicemen and women were involved directly or indirectly in the war;

Whereas American casualties during that period were fifty-four thousand two hundred and forty-six dead, of which thirty-three thousand six hundred and twenty-nine were battle deaths, one hundred and three thousand two hundred and eighty-four were wounded, eight thousand one hundred seventy-seven listed as missing or prisoners of war, and three hundred and twenty-eight prisoners of war are still unaccounted for;

Whereas, although the Korean war has been known as America's "Forgotten War", those who served have never forgotten, and this Nation should never forget the sacrifice made by those who fought and died in Korea for the noble and just cause of freedom;

Whereas the Congress and the President of the United States have enacted a law authorizing the establishment of a Korean War Veterans Memorial in the Nation's Capital to recognize and honor the service and sacrifice of those who participated in the Korean war;

Whereas increasing numbers of Korean war veterans are setting aside July 27, the anniversary date of the armistice, as a special day to remember those with whom they served and to honor those who made the supreme sacrifice in a war to preserve the ideals of freedom and independence; and

Whereas on this significant anniversary of the cease-fire which started the longest military armistice in modern history, it is right and appropriate to recognize, honor, and remember the service and sacrifice of those who endured the rigors of combat and the extremes of a hostile climate under the most trying conditions and still prevailed to preserve the independence of a free nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of July 24 to July 30, 1989, is designated as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, and to urge the departments and agencies of the United States and interested organizations, groups, and individuals to fly the American flag at half staff on July 27, 1989, in honor of those Americans who died as a result of their service in Korea.

Approved July 26, 1989.

LEGISLATIVE HISTORY—S.J. Res. 85:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
July 21, considered and passed House.

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Public Law 101-62
101st Congress

An Act

July 26, 1989
[H.R. 2214]

To ratify certain agreements relating to the Vienna Convention on Diplomatic Relations.

48 USC 1681 note.
Marshall Islands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 101(d) of Public Law 99-239, the following agreements are approved and shall enter into force in accordance with their terms:

(1) "Agreement Between the Government of the United States and the Government of the Republic of the Marshall Islands to Amend the Governmental Representation Provisions of the Compact of Free Association Pursuant to section 432 of the Compact", signed on March 18, 1988; and

Micronesia.

(2) "Agreement Between the Government of the United States and the Government of the Federated States of Micronesia to Amend the Governmental Representation Provisions of the Compact of Free Association Pursuant to section 432 of the Compact", signed on March 9, 1988.

Approved July 26, 1989.

LEGISLATIVE HISTORY—H.R. 2214:

HOUSE REPORTS: No. 101-111 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
July 13, considered and passed Senate.

○

Public Law 101-63
101st Congress

Joint Resolution

Designating October 5, 1989, as "Raoul Wallenberg Day".

July 27, 1989
[S.J. Res. 110]

Whereas in January 1944, the United States War Refugee Board asked Sweden to send a representative to Hungary to organize rescue operations for the Hungarian Jewish community which was marked for liquidation by the Nazis;

Whereas the Swedish representative, Raoul Wallenberg, through a combination of what has been described as "bluff, heroism, and a contempt for convention" waged a bold campaign in Hungary to thwart the "final solution";

Whereas in the 6 months he was in Budapest, Raoul Wallenberg managed to, directly and indirectly, save the lives of some 100,000 men, women, and children;

Whereas Raoul Wallenberg risked his own life countless times during his work, dragging Jews from trains bound for gas chambers, bringing food and blankets to those on death marches, and unflinchingly challenging Nazi authorities;

Whereas Raoul Wallenberg was taken into Soviet "protective custody" on January 13, 1945, in violation of international standards of diplomatic immunity;

Whereas Soviet officials originally denied having custody of Wallenberg, but subsequently stated that a prisoner named "Wallenberg" died in a Soviet prison on July 17, 1947;

Whereas eyewitness accounts over the years, and as recently as December 1986, indicate that Raoul Wallenberg may indeed still be alive and imprisoned in the Soviet Union;

Whereas the Soviet Union has never produced a death certificate or the remains of Raoul Wallenberg to prove that he died;

Whereas the Soviet Union, despite numerous attempts by Swedish and American officials, refuses to look into the reports that Raoul Wallenberg is still alive;

Whereas just as Raoul Wallenberg did not forget the Jewish people when it seemed that the rest of the world had forgotten, Raoul Wallenberg and all that he did for the cause of humanity must never be forgotten; and

Whereas on October 5, 1981, the President of the United States signed into law a proclamation making Raoul Wallenberg an honorary citizen of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 5, 1989, is designated as "Raoul Wallenberg Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

Approved July 27, 1989.

LEGISLATIVE HISTORY—S.J. Res. 110:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
July 17, considered and passed House.

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Public Law 101-64
101st Congress

Joint Resolution

To designate October 1989 as "Polish American Heritage Month".

July 27, 1989
[S.J. Res. 93]

Whereas the first Polish immigrants to North America were among the settlers of Jamestown, Virginia, in the 17th century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas the Polish Constitution of May 3, 1791, was directly modeled on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish people to regain their freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor the achievements of the greatest son of Poland, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor the achievements of Nobel Peace Prize Laureate Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August 1980 and is continuing its struggle against oppression by the Government of Poland; and

Whereas the Polish American Congress is observing its 45th anniversary this year and is celebrating October 1989 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "Polish American Heritage Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved July 27, 1989.

LEGISLATIVE HISTORY—S.J. Res. 93:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed Senate.
July 17, considered and passed House.

Public Law 101-65
101st Congress

Joint Resolution

July 28, 1989
[S.J. Res. 129]

To provide for the designation of September 15, 1989, as "National POW/MIA Recognition Day".

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and

Whereas the sacrifices of Americans still missing and unaccounted for and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 15, 1989, is hereby designated as "National POW/MIA Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize that day with appropriate ceremonies and activities.

Approved July 28, 1989.

LEGISLATIVE HISTORY—S.J. Res. 129:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 13, considered and passed Senate.
July 17, considered and passed House.

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Public Law 101-66
101st Congress

Joint Resolution

July 28, 1989
[S.J. Res. 142]

Designating the week beginning July 23, 1989, as "Lyme Disease Awareness Week".

Whereas Lyme disease is spread by the tick species Ixodes Dammini by means of the bacterium Burrelia Burgdorferi;

Whereas these ticks are no larger than the head of a pin;

Whereas these ticks can be carried by domestic animals such as cats, dogs, and horses;

Whereas these ticks can be transferred from domestic animals to humans;

Whereas Lyme disease was first diagnosed in southeastern Connecticut and has spread to forty-three States;

Whereas the Centers for Disease Control has reported fourteen thousand cases of Lyme disease since 1982;

Whereas Lyme disease is easily treated in its early stages by an oral vaccine administered by a physician (penicillin and erythromycin for young children and tetracycline for persons allergic to penicillin);

Whereas the early symptoms of Lyme disease are a rash, mild headaches, a slight fever, and swollen glands;

Whereas Lyme disease often mocks rheumatoid arthritis and heart disease;

Whereas if left untreated, Lyme disease can cause severe depression, brain disorders, and even death;

Whereas the best cure for Lyme disease is prevention;

Whereas prevention of Lyme disease depends upon public awareness; and

Whereas education is essential to making the general public and health care professionals more knowledgeable of Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 23, 1989, is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved July 28, 1989.

LEGISLATIVE HISTORY—S.J. Res. 142:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
July 21, considered and passed House.

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PUBLIC LAW 101-67—JULY 31, 1989

APEX PROJECT, NEVADA LAND TRANSFER AND AUTHORIZATION ACT OF 1989

29-139 O - 89 (67)

Public Law 101-67
101st Congress

An Act

July 31, 1989
[H.R. 1485]

To direct the sale of certain lands in Clark County, Nevada, to meet national defense and other needs; to authorize the sale of certain other lands in Clark County, Nevada; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Apex Project, Nevada Land Transfer and Authorization Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Apex Project, Nevada Land Transfer and Authorization Act of 1989".

SEC. 2. FINDINGS AND DEFINITIONS.

(a) FINDINGS.—Congress finds the following—

(1) The only two domestic producers of ammonium perchlorate ("AP"), a principal component of solid rocket fuel essential to the Nation's defense and space programs, are Pacific Engineering and Production Company, Incorporated ("Pepcon") and Kerr-McGee Chemical Corporation ("Kerr-McGee"), which established production facilities near the city of Henderson in Clark County, Nevada ("the county"). On May 4, 1988, an explosion destroyed the Pepcon plant, thereby substantially reducing the Nation's capacity to produce solid rocket fuel.

(2) A commission subsequently appointed by the Governor of Nevada to examine the adequacy of existing policies and regulations pertaining to the manufacture and storage of certain industrial materials has recommended new policies which imply the desirability of relocating both some of Kerr-McGee's AP production and storage facilities and also other industries to a less densely populated part of Clark County, but within reasonable distance of the present work force.

(3) The Department of Defense and the National Aeronautics and Space Administration have identified an urgent need to replace the domestic ammonium perchlorate production capacity lost in the Pepcon accident and to firm up existing production capabilities in order to meet current shortages and long-term requirements.

(4) The county has identified as the preferred site for the relocation of Kerr-McGee's AP facilities approximately thirty-seven hundred acres of land ("Kerr-McGee Site"), which is part of approximately twenty-one thousand acres of Federal lands, identified by the county as the "Apex Site", managed by the Bureau of Land Management ("BLM"). The county has advised the BLM it would like to purchase some or all of the lands comprising the Apex Site for development as a heavy-industry use zone, to locate potentially hazardous facilities. Orderly and appropriate development of such an industrial zone, in a manner consistent with public safety, protection of environmental and other values, and relevant State and Federal poli-

cies and programs (including the national defense) would be preferable to development of the lands comprising the Apex Site in an unplanned manner.

(5) The Federal lands comprising the Apex Site are presently classified for retention and multiple use by the applicable BLM land use plan. At the time the current land use plan was developed, disposal of large parcels of land immediately outside the Las Vegas Valley was not identified as a possibility. However, the expeditious transfer of the Kerr-McGee Site to Clark County for resale to Kerr-McGee, and transfer of necessary associated rights-of-way to the county, will serve an important national need which cannot be served as well on non-Federal land in Clark County and which outweighs other existing and potential public uses of the lands which would be served by maintaining them in Federal ownership.

(6) Kerr-McGee has prepared an environmental assessment on the proposed transfer of the Kerr-McGee Site and supporting utility and transportation rights-of-way, dated April 1989, entitled "Apex Nevada Land Transfer Proposal and Proposed Kerr-McGee Ammonium Perchlorate Facility", which identifies certain environmental impacts likely to result from the transfer of the site and supporting rights-of-way to the county which would be mitigated with various control measures. Any transfer by the United States of lands within the Apex Site should be conditioned upon provision of all measures appropriate to prevent or mitigate adverse environmental impacts.

(7) Lands within the Apex Site provide habitat for the desert tortoise. The BLM, recognizing that the desert tortoise habitat found in Nevada, and elsewhere, is being significantly affected, especially within the Mojave Desert, by the rapid development associated with industrial growth and by other human activities, has prepared a rangewide plan for desert tortoise habitat management on the public lands. The goal of this plan is to ensure that viable desert tortoise populations will continue to exist through cooperative resource management aimed at protecting the species and its habitat. The BLM's implementation of this plan should be accelerated.

(8) Lands within the Apex Site are close to Nellis Air Force Base and to public lands withdrawn for use by the Air Force as part of the Nellis Air Force Range complex. Nellis Air Force Base is the most active military airfield in the United States (with many of the aircraft using the base carrying live ordnance) and, together with the Nellis Air Force Range, constitutes a unique facility that plays a vital role in maintaining the combat capability of the Air Force's tactical units. Maintaining the capability of Nellis Air Force Base to fulfill its mission must be a central part of any decisions concerning future use or disposition of the lands within the Apex Site.

(b) **DEFINITIONS.**—As used in this Act, the following terms shall have the following meanings—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "lands" means lands and interests therein.

(3) The term "county" or "Clark County" means Clark County, Nevada.

(4) The term "Kerr-McGee" means the Kerr-McGee Chemical Corporation.

(5) The term "BLM's Desert Tortoise Plan" means the plan entitled "Desert Tortoise Habitat Management on the Public Lands: A Rangewide Plan", approved November 14, 1988.

(6) All other terms shall have the same meaning as such terms have when used in the Federal Land Policy and Management Act of 1976.

SEC. 3. KERR-McGEE SITE TRANSFER.

(a) Directed Sale.—Subject to all valid existing rights, the Secretary is directed to convey the public lands comprising approximately thirty-seven hundred acres designated as "Area 1" and "Area 2" within the "Kerr-McGee Site" on the map entitled "Apex Heavy-Industry Use Zone" dated May 1989, to Clark County, Nevada, solely for sale to Kerr-McGee, in return for payment of the lands' appraised fair market value, as determined by the Secretary in accordance with established appraisal practices. However, the lands within Area 1 shall not be conveyed unless and until the Secretary has received a written commitment from Clark County and Kerr-McGee that whichever is offered the opportunity to purchase the lands within Area 2 will do so at such lands' appraised fair market value when the lands are offered pursuant to subsection (c) of this section.

Utilities.
Transportation.

(b) Rights-of-Way.—Subject to all valid existing rights, the Secretary is directed to grant utility and transportation rights-of-way to Clark County for the connection of existing electric power, water, natural gas, telephone, railroad and highway facilities to the Kerr-McGee Site, all as generally depicted on the map entitled "Rights-of-Way and Proposed Access and Utility Locations" dated May 1989. Each right-of-way shall not exceed two hundred feet in width and shall not preclude the Secretary from permitting other uses of the affected lands compatible with the uses for which such rights-of-way are granted. Clark County may permit other parties to use the lands covered by such rights-of-way for some or all of the purposes specified in this subsection.

(c) Timing, Etc.—(1) Subject to subsections (a) and (b) of this section, the Secretary shall offer to sell to Clark County the lands within the Kerr-McGee Site depicted as Area 1 and shall offer to grant the rights-of-way described in subsection (b) of this section to Clark County within thirty days of the date of enactment of this Act, but the Secretary's duty to transfer such lands and rights-of-way shall not lapse if they are not offered to the county within the prescribed time. Such sale shall be for fair market value, as determined by the Secretary in accordance with established procedures of the BLM. If Clark County fails to purchase such lands within sixty days of receiving the Secretary's offer, the lands and rights-of-way shall be offered to Kerr-McGee for sale and grant on the same basis, and subject to Kerr-McGee's entering into an agreement with the Secretary similar to the agreement described in section 6(a). If within sixty days after such offer, Kerr-McGee fails to purchase such lands, the lands shall become subject to the authorization provided for in section 4 of this Act, and the total acreage authorized for disposition under this section shall be increased accordingly.

(2) If the lands within Area 1 are purchased pursuant to paragraph (1) of this subsection, upon completion of a survey of the boundaries of Area 2, the Secretary shall offer to sell to the purchaser of Area 1 the lands within Area 2 at their appraised fair

market value, as determined by the Secretary in accordance with established procedures of the BLM.

(3) Each right-of-way granted pursuant to this section shall be subject to rental payments and other conditions provided for in applicable law, including the Federal Land Policy and Management Act of 1976 and this Act. The amounts received by the United States from sales of lands covered by this section shall be distributed pursuant to laws generally applicable to sales of public lands.

SEC. 4. AUTHORIZATION FOR ADDITIONAL TRANSFERS.

(a) SALE AUTHORIZED.—Notwithstanding any BLM land use plan calling for retention of the Apex Site and notwithstanding the reporting requirements and competitive bidding requirements of section 203 of the Federal Land Policy and Management Act of 1976, the Secretary is authorized, subject to any other requirements of law, including the conditions of this section, to sell to Clark County some or all of the lands within the Apex Site, depicted on the map referred to in section 3(a), that lie outside the boundaries of the Kerr-McGee Site (as depicted on such map) for fair market value as determined by the Secretary in accordance with established appraisal procedures.

Contracts.

(b) REQUIREMENTS AND CONDITIONS.—If, no later than one year after the date of enactment of this Act, the county demonstrates to the satisfaction of the Secretary that the county has designated the lands comprising the Apex Site as a heavy-use industrial zone, pursuant to applicable laws of the State of Nevada, and has adopted a plan for the development of some or all of such lands accordingly, the Secretary shall offer to enter into a land sales agreement with Clark County for the transfer of some or all of such lands to the county by one or more direct sales pursuant to this section over a period not to exceed ten years. Such agreement shall provide for purchasers of parcels of the lands within the Apex Site, with any specific parcels to be sold to be determined by the Secretary, in response to proposals by the county and after consultation with the Secretary of the Air Force concerning any potential impact of any such sale on activities associated with Nellis Air Force Base. The purchase price for each parcel shall be its appraised fair market value at the time of the sale, but any agreement between the county and the Secretary under this section shall provide that if the county sells any such parcel or portion thereof, the county shall pay to the United States an amount equal to 50 per centum of the amount by which the amount received by the county exceeds 110 per centum of the sum equal to the total amounts expended by the county for acquisition of such parcel or portion thereof, for improvements to such parcel or portion thereof, and for preparation of such parcel or portion thereof for sale.

(c) RIGHTS-OF-WAY.—Pursuant to applicable law, the Secretary may grant Clark County such rights-of-way on public lands as may be necessary to support the development as a heavy-use industrial zone of some or all of the lands identified in subsection (a).

(d) PROCEDURES.—Except as specified in subsection (a) nothing in this section shall relieve the Secretary from compliance with all laws applicable either to the transfer of some or all of the lands identified in subsection (a) or to the granting of any rights-of-way, including, but not limited to, the National Environmental Policy Act of 1969. Unless otherwise specified in this Act, sales of lands pursuant to this section shall be made and patents or other docu-

Patents and trademarks.

ments of conveyance shall be issued as if such sales were made pursuant to the Federal Land Policy and Management Act of 1976.

Minerals and mining.
Energy.

(e) WITHDRAWAL, ETC.—(1) Subject to all valid existing rights, the lands within the Apex Site (depicted on the map referred to in section 3(a)) are hereby withdrawn from all forms of entry and appropriation under the public land laws, including the mining law, and from operation of the mineral leasing and geothermal leasing laws, but shall remain available for disposition under the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.) and for sale under this Act or other applicable law. This withdrawal shall continue in effect until a parcel of land affected by such withdrawal is sold, if such sale includes the right, title and interest of the United States in the minerals in such parcel. If the county or another party to whom such parcel is offered, elects not to seek to purchase the minerals in any such parcel, such parcel shall remain withdrawn from entry, location, or patent under the mining laws but after receipt by the Secretary of notification that the county or other offeree does not seek to purchase such minerals, such parcel shall be open to operation of the mineral leasing and geothermal leasing laws. The withdrawal made by this subsection shall continue for twelve years after the date of enactment of this Act or until otherwise provided by an Act of Congress enacted after the date of enactment of this Act.

(2) Before offering any parcel for sale pursuant to an agreement with the county under this section, the Secretary (in addition to other requirements of law) shall consider whether development of such parcel as part of a heavy-use industrial zone, including any appropriation mitigation measures, would be inconsistent with BLM's Desert Tortoise Plan.

Claims.

(f) COGENERATION PROJECT.—Notwithstanding any withdrawal of the Apex Site (depicted on the map referred to in section 3(a)), and subject to the provisions of applicable law, the Secretary may grant to holders of valid existing mill-site claims on such lands such rights-of-way as may be necessary for the construction, operation, and maintenance of facilities required in the cogeneration of electricity at the site of existing mill-site operations on such claims, unless and until the land subject to such claims is transferred out of Federal ownership. No such grant shall be made unless and until all environmental studies required in connection with such construction, operation, and maintenance have been completed and any necessary mitigation measures have been agreed to.

SEC. 5. RESERVATION OF RIGHT-OF-WAY CORRIDORS.

The transfer of lands pursuant to section 4 of this Act shall be subject to the reservation to the United States of the right-of-way corridors depicted on a map entitled "Right-of-Way Corridors Across the Apex Heavy Industrial Zone" dated May 1989. These corridors shall be administered by the Secretary, who may grant rights-of-way over, upon, under and through the corridors consistent with applicable law. In the administration of such corridors, the Secretary shall, so far as feasible, locate rights-of-way so as to have the least possible impact on any industrial uses. Nothing in this Act shall be construed as restricting the authority of the Secretary, under the Federal Land Policy and Management Act of 1976 or other applicable law, to reserve or grant any other rights-of-way with respect to such lands, in addition to the rights-of-way described on such map.

SEC. 6. ENVIRONMENTAL CONSIDERATIONS.

Wildlife.

(a) KERR-MCGEE SITE.—The Secretary shall not make the conveyance directed by section 3 until Kerr-McGee and Clark County have entered into a written agreement with the Secretary whereby Kerr-McGee and the county commit to undertake the measures specified in the document identified in section 2(a)(6) in order to mitigate adverse effects on wildlife and other resources and values resulting from the use of such lands for industrial purposes. At the request of the Secretary, the Attorney General of the United States may bring an appropriate legal action to enforce such agreement.

(b) BLM REPORTS.—(1) No later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report as to the funds and personnel required to fully implement BLM's Desert Tortoise Plan.

(2) As soon as possible after the date of enactment of this Act, the Secretary, acting through the Director of the Bureau of Land Management, shall arrange for a class-three soil survey of public lands in Clark County, to assist in the implementation in such county of BLM's Desert Tortoise Plan and other aspects of the management of the public lands in such county.

(3) As soon as possible after the date of enactment of this Act, the Secretary shall invite public proposals for the designation, pursuant to the Federal Land Policy and Management Act of 1976, of areas of critical environmental concern whose designation would further the implementation of BLM's Desert Tortoise Plan or otherwise assist in the protection of resources and values of public lands in Nevada. The Secretary shall provide a reasonable period for receipt of such proposals, shall evaluate all proposals received, and shall take such action thereon as the Secretary considers appropriate.

(4) As soon as possible after the date of enactment of this Act, the Secretary shall consider the desirability of restricting or eliminating uses of public lands in the Paiute Valley which may conflict with implementation of BLM's Desert Tortoise Plan with respect to those lands. No later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report concerning the results of the Secretary's actions pursuant to this paragraph.

(c) OTHER REPORTS.—(1) At the time that the President submits a budget request for fiscal year 1991, and annually thereafter for fifteen years, the Secretary shall submit to the Congress a statement of the total amounts received by the United States as the result of sales of public lands described in this Act, and an account of the distribution of such receipts.

(2) No later than ninety days after the date of enactment of this Act, the Secretary shall evaluate the desirability of acquisition of the lands specified in appendix A to the report of the Committee on Interior and Insular Affairs of the United States House of Representatives to accompany H.R. 1485 of the One Hundred First Congress (House Report 101-79). Such evaluation shall be based solely on the resources and values of such lands and the extent to which national policies and programs for management of such resources and values would be furthered by such acquisition.

Promptly after the completion of such evaluation, the Secretary shall report the results thereof to the Committee on Interior and Insular Affairs of the United States House of Representatives, the Committee on Energy and Natural Resources of the United States Senate, and the Representatives and Senators from the State of Nevada.

SEC. 7. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary shall file maps and legal descriptions of the lands identified in sections 3, 4, and 5 with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions. The maps and legal descriptions shall be on file and available to public inspection in the offices of the Director of the BLM.

Public information.

Approved July 31, 1989.

LEGISLATIVE HISTORY—H.R. 1485:

HOUSE REPORTS: No. 101-79, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-65 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 20, considered and passed House.
July 14, considered and passed Senate, amended.
July 19, House concurred in Senate amendments.

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Public Law 101-68
101st Congress

An Act

To remove a restriction from a parcel of land in Roanoke, Virginia, in order for that land to be conveyed to the State of Virginia for use as a veterans nursing home.

Aug. 1, 1989
[H.R. 310]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF RESTRICTION.

(a) IN GENERAL.—Subject to section 2, the Secretary of the Interior shall execute such instruments as may be necessary to remove the restriction that the parcel of land described in subsection (b) be used exclusively for public park or public recreation purposes in perpetuity on the condition that the city of Roanoke, Virginia, transfer such land to the State of Virginia for use as a veterans nursing home.

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is that parcel known as Veterans Park which is comprised of approximately 16.8 acres and was conveyed to the city of Roanoke, Virginia, by the United States on June 25, 1980 (recorded in the city of Roanoke Deed Book 1455, page 1154).

SEC. 2. LIMITATION ON REMOVAL.

The Secretary of the Interior may not remove the restriction described in section 1(a) if, within 4 years after the date of enactment of this Act, the State of Virginia has not committed funds with respect to the parcel described in section 1(b) in an amount sufficient—

(1) to comply with the State's obligation under section 5035 of title 38, United States Code (relating to applications with respect to projects; payments), or

(2) to construct, without a Federal grant, a veterans nursing home.

SEC. 3. REVERSION.

If, after the removal of the restriction described in section 1(a), the parcel referred to in section 1(b) ceases to be used for the purposes of a veterans nursing home, the parcel shall revert to the United States.

Approved August 1, 1989.

LEGISLATIVE HISTORY—H.R. 310:

HOUSE REPORTS: No. 101-18 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-64 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 11, considered and passed House.
July 14, considered and passed Senate.

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29-139 0 - 89 (68)

PUBLIC LAW 101-69—AUG. 2, 1989

HELSINKI HUMAN RIGHTS DAY

Public Law 101-69
101st Congress

Joint Resolution

Aug. 2, 1989
[S.J. Res. 150]

To designate August 1, 1989, as "Helsinki Human Rights Day".

Whereas August 1, 1989, will be the fourteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki accords;

Whereas the Helsinki accords recognize the inherent relationship between respect for human rights and fundamental freedoms and the attainment of genuine security;

Whereas the Helsinki accords express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki accords also express the commitment of the participating States on whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the United Nations, to promote universal and effective respect for them";

Whereas the Helsinki accords also express the commitment of the participating States to "conform the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound";

Whereas the Helsinki accords by incorporation also express the commitment of the participating States to guarantee the right of the individual to leave his own country and return to such country;

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki accords also express the commitments of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries";

Whereas all the participating States, including the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki accords, have made a commitment to adhere to the principles of human rights and fundamental freedoms as embodied in the Helsinki accords;

Whereas, despite some significant improvements in some of these countries, the aforementioned Governments still have the worst performance records and have failed to fully implement their obligations under Principle VII of the Helsinki accords to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and under Basket III of the Helsinki accords to promote free movement of people, ideas and information;

Whereas representatives from the signatory States convened in Vienna on November 4, 1986, to review implementation and address issues of compliance with the human rights and humanitarian provisions of the Helsinki accords;

Whereas representatives from the signatory States reached consensus on the Concluding Document of the Vienna Meeting on January 19, 1989, a document which has added clarity and precision to the obligations undertaken by the States in signing the Helsinki accords; and

Whereas by agreeing to the document, the signatory States "reaffirmed their commitment to the CSCE process and underlined its essential role in increasing confidence, in opening up new ways for cooperation, in promoting respect for human rights and fundamental freedoms and thus strengthening international security": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1989, the fourteenth anniversary of the signing of the Final Act on the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory nations to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of the Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory nation which may be in violation (in particular, the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania);

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is an essential means of promoting the full implementation of the human rights and humanitarian provisions of the Helsinki accords.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

Approved August 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 150:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
July 31, considered and passed House.

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Public Law 101-70
101st Congress

An Act

Aug. 3, 1989
[H.R. 999]

To reauthorize the Advisory Council on Historic Preservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. section 470 et seq.), is further amended as follows: Section 212(a) is amended by deleting the last sentence and inserting in lieu thereof the sentence "There are authorized to be appropriated not to exceed $2,500,000 in each fiscal year 1990 through 1994.". 16 USC 470t.

Approved August 3, 1989.

LEGISLATIVE HISTORY—H.R. 999:

HOUSE REPORTS: No. 101-21 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-36 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
- Apr. 11, considered and passed House.
- June 2, considered and passed Senate, amended.
- July 19, House concurred in Senate amendments.

○

Public Law 101-71
101st Congress

An Act

To provide for the Federal reimbursement of local noise abatement funds.

Aug. 4, 1989
[H.R. 968]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Noise Reduction Reimbursement Act of 1989.
Airports.
49 USC app. 2201 note.
49 USC app. 2212 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Noise Reduction Reimbursement Act of 1989".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) enhance the quality of life of citizens living in proximity to the Nation's airports;

(2) allow for the prompt implementation of the full range of recommendations of federally sponsored noise studies;

(3) provide that scarce Federal funds for noise abatement may be used with maximum efficiency; and

(4) provide that individual airports throughout the national airway system are encouraged to spend local funds on noise abatement by providing for the Federal reimbursement of such local funds.

SEC. 3. NOISE CONTROL COSTS INCLUDED AS ALLOWABLE PROJECT COSTS.

Section 513(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(a)(2)) is amended by inserting "(A)" after "(2)", by inserting "or" after "1946;", and by adding at the end thereof the following new subparagraph:

"(B) it was incurred after June 1, 1989, by the airport operator and before, on, or after the execution of the grant agreement and was incurred as part of the airport operator's federally approved airport noise compatibility program (including project formulation costs) and in accordance with all applicable statutory and administrative requirements;".

Approved August 4, 1989.

LEGISLATIVE HISTORY—H.R. 968:

HOUSE REPORTS: No. 101-51 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 101-72 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
May 16, considered and passed House.
July 24, considered and passed Senate.

○

Public Law 101-72
101st Congress

An Act

Aug. 7, 1989
[H.R. 3024]

To increase the statutory limit on the public debt, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

31 USC 3101 note.

SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

During the period beginning on the date of the enactment of this Act and ending on October 31, 1989, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased by $70,000,000,000.

SEC. 2. CURRENT ACCRUAL VALUE OF CERTAIN OBLIGATIONS ISSUED ON A DISCOUNT BASIS.

Subsection (c) of section 3101 of title 31, United States Code, is amended to read as follows:

"(c) For purposes of this section, the face amount, for any month, of any obligation issued on a discount basis that is not redeemable before maturity at the option of the holder of the obligation is an amount equal to the sum of—

"(1) the original issue price of the obligation, plus

"(2) the portion of the discount on the obligation attributable to periods before the beginning of such month (as determined under the principles of section 1272(a) of the Internal Revenue Code of 1986 without regard to any exceptions contained in paragraph (2) of such section).".

Approved August 7, 1989.

LEGISLATIVE HISTORY—H.R. 3024:

HOUSE REPORTS: No. 101-188 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 1, considered and passed House.
Aug. 4, considered and passed Senate.

Public Law 101-73
101st Congress

An Act

To reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

Aug. 9, 1989
[H.R. 1278]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
12 USC 1811 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Institutions Reform, Recovery, and Enforcement Act of 1989".

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TITLE I—PURPOSES

SEC. 101. PURPOSES.

12 USC 1811 note.

The purposes of this Act are as follows:

(1) To promote, through regulatory reform, a safe and stable system of affordable housing finance.

(2) To improve the supervision of savings associations by strengthening capital, accounting, and other supervisory standards.

(3) To curtail investments and other activities of savings associations that pose unacceptable risks to the Federal deposit insurance funds.

(4) To promote the independence of the Federal Deposit Insurance Corporation from the institutions the deposits of which it insures, by providing an independent board of directors, adequate funding, and appropriate powers.

(5) To put the Federal deposit insurance funds on a sound financial footing.

(6) To establish an Office of Thrift Supervision in the Department of the Treasury, under the general oversight of the Secretary of the Treasury.

(7) To establish a new corporation, to be known as the Resolution Trust Corporation, to contain, manage, and resolve failed savings associations.

(8) To provide funds from public and private sources to deal expeditiously with failed depository institutions.

(9) To strengthen the enforcement powers of Federal regulators of depository institutions.

(10) To strengthen the civil sanctions and criminal penalties for defrauding or otherwise damaging depository institutions and their depositors.

TITLE II—FEDERAL DEPOSIT INSURANCE CORPORATION

SEC. 201. DEPOSITORY INSTITUTIONS.

(a) AMENDMENTS TO REFERENCES TO INSURED BANK.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking out "insured bank", "insured banks", and "insured bank's" each place each term appears in such Act (except where any such term is preceded by "member" or "nonmember") and inserting in lieu thereof "insured depository institution", "insured depository institutions", and "insured depository institution's", respectively.

(2) EXCEPTIONS.—The terms "insured bank" and "insured banks" shall not be amended pursuant to paragraph (1) in

sections 3(h), 11(h), 11(i), 13(c)(1)(B), 13(f), and 18(d) of the Federal Deposit Insurance Act.

(b) AMENDMENTS TO REFERENCES TO FEDERAL HOME LOAN BANK BOARD.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking out "Federal Home Loan Bank Board" each place such term appears and inserting in lieu thereof "Director of the Office of Thrift Supervision".

SEC. 202. DUTIES OF FEDERAL DEPOSIT INSURANCE CORPORATION.

Section 1 of the Federal Deposit Insurance Act (12 U.S.C. 1811) is amended by inserting "and savings associations" after "banks".

SEC. 203. FDIC BOARD MEMBERS.

12 USC 1812. (a) IN GENERAL.—Section 2 of the Federal Deposit Insurance Act is amended to read as follows:

"SEC. 2. MANAGEMENT.

"(a) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—The management of the Corporation shall be vested in a Board of Directors consisting of 5 members—

"(A) 1 of whom shall be the Comptroller of the Currency;

"(B) 1 of whom shall be the Director of the Office of Thrift Supervision; and

"(C) 3 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

"(2) POLITICAL AFFILIATION.—After February 28, 1993, not more than 3 of the members of the Board of Directors may be members of the same political party.

"(b) CHAIRPERSON AND VICE CHAIRPERSON.—

"(1) CHAIRPERSON.—1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairperson of the Board of Directors for a term of 5 years.

"(2) VICE CHAIRPERSON.—1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairperson of the Board of Directors.

"(3) ACTING CHAIRPERSON.—In the event of a vacancy in the position of Chairperson of the Board of Directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as Chairperson.

"(c) TERMS.—

"(1) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 6 years.

"(2) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

"(3) CONTINUATION OF SERVICE.—The Chairperson, Vice Chairperson, and each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

"(d) VACANCY.—

"(1) IN GENERAL.—Any vacancy on the Board of Directors shall be filled in the manner in which the original appointment was made.

"(2) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the office of the Comptroller of the Currency or the office of Director of the Office of Thrift Supervision and pending the appointment of a successor, or during the absence or disability of the Comptroller or such Director, the acting Comptroller of the Currency or the acting Director of the Office of Thrift Supervision, as the case may be, shall be a member of the Board of Directors in the place of the Comptroller or Director.

"(e) INELIGIBILITY FOR OTHER OFFICES.—

"(1) POSTSERVICE RESTRICTION.—

"(A) IN GENERAL.—No member of the Board of Directors may hold any office, position, or employment in any insured depository institution or any depository institution holding company during—

"(i) the time such member is in office; and

"(ii) the 2-year period beginning on the date such member ceases to serve on the Board of Directors.

"(B) EXCEPTION FOR MEMBERS WHO SERVE FULL TERM.—The limitation contained in subparagraph (A)(ii) shall not apply to any member who has ceased to serve on the Board of Directors after serving the full term for which such member was appointed.

"(2) RESTRICTION DURING SERVICE.—No member of the Board of Directors may—

"(A) be an officer or director of any insured depository institution, depository institution holding company, Federal Reserve bank, or Federal home loan bank; or

"(B) hold stock in any insured depository institution or depository institution holding company.

"(3) CERTIFICATION.—Upon taking office, each member of the Board of Directors shall certify under oath that such member has complied with this subsection and such certification shall be filed with the secretary of the Board of Directors.".

(b) TRANSITION PROVISION.— 12 USC 1812 note.

(1) CHAIRPERSON.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 may continue to serve as the Chairperson until the end of the term to which such Chairman was appointed.

(2) MEMBERS.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the appointed member of the Board of Directors of the Federal Deposit Insurance Corporation on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 who is not the Chairman shall continue to serve in office until the earlier of—

(A) the end of the term to which such member was appointed; or

(B) February 28, 1993,

except that such member may continue to serve after the end of such term until a successor has been appointed and qualified.

(3) APPOINTMENTS BEFORE MARCH 1, 1993.—Notwithstanding any provision of section 2 of the Federal Deposit Insurance Act, the term of any member appointed to the Board of Directors of the Federal Deposit Insurance Corporation before February 28,

1993 (including the term of any Chairperson), shall end on such date.

SEC. 204. DEFINITIONS.

(a) Definitions of Bank and Related Terms.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended to read as follows:

"(a) Definitions of Bank and Related Terms.—

"(1) Bank.—The term 'bank'—

"(A) means any national bank, State bank, and District bank, and any Federal branch and insured branch;

"(B) includes any former savings association that—

"(i) has converted from a savings association charter; and

"(ii) is a Savings Association Insurance Fund member.

"(2) State bank.—The term 'State bank' means any bank, banking association, trust company, savings bank, industrial bank (or similar depository institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank), or other banking institution which—

"(A) is engaged in the business of receiving deposits, other than trust funds (as defined in this section); and

"(B) is incorporated under the laws of any State or which is operating under the Code of Law for the District of Columbia (except a national bank),

including any cooperative bank or other unincorporated bank the deposits of which were insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(3) State.—The term 'State' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

"(4) District bank.—The term 'District bank' means any State bank operating under the Code of Law of the District of Columbia.

(b) Definition of Savings Associations and Related Terms.—Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) is amended to read as follows:

"(b) Definition of Savings Associations and Related Terms.—

"(1) Savings association.—The term 'savings association' means—

"(A) any Federal savings association;

"(B) any State savings association; and

"(C) any corporation (other than a bank) that the Board of Directors and the Director of the Office of Thrift Supervision jointly determine to be operating in substantially the same manner as a savings association.

"(2) Federal savings association.—The term 'Federal savings association' means any Federal savings association or Federal savings bank which is chartered under section 5 of the Home Owners' Loan Act.

"(3) State savings association.—The term 'State savings association' means—

"(A) any building and loan association, savings and loan association, or homestead association; or

"(B) any cooperative bank (other than a cooperative bank which is a State bank as defined in subsection (a)(2)),

which is organized and operating according to the laws of the State (as defined in subsection (a)(3)) in which it is chartered or organized.".

(c) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS.—Section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) is amended to read as follows:

"(c) DEFINITIONS RELATING TO DEPOSITORY INSTITUTIONS.—

"(1) DEPOSITORY INSTITUTION.—The term 'depository institution' means any bank or savings association.

"(2) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' means any bank or savings association the deposits of which are insured by the Corporation pursuant to this Act.

"(3) INSTITUTIONS INCLUDED FOR CERTAIN PURPOSES.—The term 'insured depository institution' includes any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank for purposes of section 8 of this Act.

"(4) FEDERAL DEPOSITORY INSTITUTION.—The term 'Federal depository institution' means any national bank, any Federal savings association, and any Federal branch.

"(5) STATE DEPOSITORY INSTITUTION.—The term 'State depository institution' means any State bank, any State savings association, and any insured branch which is not a Federal branch.".

(d) DEFINITIONS RELATING TO MEMBER BANKS.—Section 3(d) of the Federal Deposit Insurance (12 U.S.C. 1813(d)) is amended to read as follows:

"(d) DEFINITIONS RELATING TO MEMBER BANKS.—

"(1) NATIONAL MEMBER BANK.—The term 'national member bank' means any national bank which is a member of the Federal Reserve System.

"(2) STATE MEMBER BANK.—The term 'State member bank' means any State bank which is a member of the Federal Reserve System.".

(e) DEFINITIONS RELATING TO NONMEMBER BANKS.—Section 3(e) of the Federal Deposit Insurance Act (12 U.S.C. 1813(e)) is amended to read as follows:

"(e) DEFINITIONS RELATING TO NONMEMBER BANKS.—

"(1) NATIONAL NONMEMBER BANK.—The term 'national nonmember bank' means any national bank which—

"(A) is located in any territory of the United States, Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands; and

"(B) is not a member of the Federal Reserve System.

"(2) STATE NONMEMBER BANK.—The term 'State nonmember bank' means any State bank which is not a member of the Federal Reserve System.".

(f) ADDITIONAL AMENDMENTS TO DEFINITIONS.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(1) in subsection (j), by inserting "or savings association" after "of a bank";

(2) in subsection (l)—

(A) by inserting "or savings association" after "a bank", "the bank", "another bank", "receiving bank", and "such bank" each place such terms appear;

(B) by inserting "or savings association's" after the word "bank's" each place such term appears;

(C) in paragraph (5), by inserting ", Director of the Office of Thrift Supervision," after "Comptroller of the Currency"; and

(D) in paragraph (5)(A), by striking out "and the Virgin Islands" and inserting in lieu thereof "the Virgin Islands, and the Northern Mariana Islands";

(3) in subsection (m)—

(A) in paragraph (1)—

(i) by striking out "the bank" and inserting in lieu thereof "the depository institution"; and

(ii) by inserting "of the Northern Mariana Islands," after "Virgin Islands,"; and

(B) in paragraph (2), by striking out "ther" and inserting in lieu thereof "term";

(4) by striking out subsection (q) and inserting in lieu thereof the following:

"(q) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' means—

"(1) the Comptroller of the Currency, in the case of any national banking association, any District bank, or any Federal branch or agency of a foreign bank;

"(2) the Board of Governors of the Federal Reserve System, in the case of—

"(A) any State member insured bank (except a District bank),

"(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978,

"(C) any foreign bank which does not operate an insured branch,

"(D) any agency or commercial lending company other than a Federal agency,

"(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Depository Institutions Supervisory Act, and

"(F) any bank holding company and any subsidiary of a bank holding company (other than a bank);

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank (except a District bank), or a foreign bank having an insured branch; and

"(4) the Director of the Office of Thrift Supervision in the case of any savings association or any savings and loan holding company.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution."; and

(5) by striking out subsection (t) and inserting in lieu thereof the following new subsection:

"(t) INCLUDES, INCLUDING.—

"(1) In general.—The terms 'includes' and 'including' shall not be construed more restrictively than the ordinary usage of such terms so as to exclude any other thing not referred to or described.

"(2) Rule of construction.—Paragraph (1) shall not be construed as creating any inference that the term 'includes' or 'including' in any other provision of Federal law may be deemed to exclude any other thing not referred to or described.";

(6) by adding at the end thereof the following new subsections:

"(u) Institution-Affiliated Party.—The term 'institution-affiliated party' means—

"(1) any director, officer, employee, or controlling stockholder (other than a bank holding company) of, or agent for, an insured depository institution;

"(2) any other person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 7(j);

"(3) any shareholder (other than a bank holding company), consultant, joint venture partner, and any other person as determined by the appropriate Federal banking agency (by regulation or case-by-case) who participates in the conduct of the affairs of an insured depository institution; and

"(4) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—

"(A) any violation of any law or regulation;

"(B) any breach of fiduciary duty; or

"(C) any unsafe or unsound practice,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured depository institution.

"(v) Violation.—The term 'violation' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(w) Definitions Relating to Holding Companies.—

"(1) Depository institution holding company.—The term 'depository institution holding company' means a bank holding company or a savings and loan holding company.

"(2) Bank holding company.—The term 'bank holding company' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(3) Savings and loan holding company.—The term 'savings and loan holding company' has the meaning given to such term in section 10 of the Home Owners' Loan Act.

"(4) Subsidiary.—The term 'subsidiary'—

"(A) means any company which is owned or controlled directly or indirectly by another company; and

"(B) includes any service corporation owned in whole or in part by an insured depository institution or any subsidiary of such a service corporation.

"(5) Control.—The term 'control' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956.

"(6) Affiliate.—The term 'affiliate' has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.

"(x) Definitions Relating to Default.—

"(1) DEFAULT.—The term 'default' means, with respect to an insured depository institution, any adjudication or other official determination by any court of competent jurisdiction, the appropriate Federal banking agency, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for an insured depository institution or, in the case of a foreign bank having an insured branch, for such branch.

"(2) IN DANGER OF DEFAULT.—The term 'in danger of default' means an insured depository institution with respect to which (or in the case of a foreign bank having an insured branch, with respect to such insured branch) the appropriate Federal banking agency or State chartering authority has advised the Corporation (or, if the appropriate Federal banking agency is the Corporation, the Corporation has determined) that—

"(A) in the opinion of such agency or authority—

"(i) the depository institution or insured branch is not likely to be able to meet the demands of the institution's or branch's depositors or pay the institution's or branch's obligations in the normal course of business; and

"(ii) there is no reasonable prospect that the depository institution or insured branch will be able to meet such demands or pay such obligations without Federal assistance; or

"(B) in the opinion of such agency or authority—

"(i) the depository institution or insured branch has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

"(ii) there is no reasonable prospect that the capital of the depository institution or insured branch will be replenished without Federal assistance.".

SEC. 205. INSURED SAVINGS ASSOCIATIONS.

Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended—

(1) in subsection (a)—

(A) by striking out "(a) Every bank" and inserting in lieu thereof the following:

"(a) CONTINUATION OF INSURANCE.—

"(1) BANKS.—Each bank"; and

(B) by adding at the end thereof the following new paragraph:

"(2) SAVINGS ASSOCIATIONS.—Each savings association the accounts of which were insured by the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall be, without application or approval, an insured depository institution.";

(2) in subsection (b)—

(A) by inserting after the 1st sentence the following new sentences: "Any application or notice for membership or to commence or resume business shall be promptly provided by the appropriate Federal banking agency to the Corporation and the Corporation shall have a reasonable period of time to provide comments on such application or notice. Any comments submitted by the Corporation to the appropriate Federal banking agency shall be considered by such agency.";

(B) by striking out the penultimate and the last sentences; and

(C) by striking out "(b) Every national bank" and inserting in lieu thereof "(b) CERTIFICATION BY OTHER BANKING AGENCIES.—Every national bank"; and

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c) CONTINUATION OF INSURANCE AFTER CONVERSION.—Subject to section 5(d)—

"(1) any State depository institution which results from the conversion of any insured Federal depository institution; and

"(2) any Federal depository institution which results from the conversion of any insured State depository institution,

shall continue as an insured depository institution.

"(d) CONTINUATION OF INSURANCE AFTER MERGER OR CONSOLIDATION.—Any State depository institution or any Federal depository institution which results from the merger or consolidation of insured depository institutions, or from the merger or consolidation of a noninsured depository institution with an insured depository institution, shall continue as an insured depository institution.".

SEC. 206. APPLICATION PROCESS; INSURANCE FEES.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(1) by striking out "(a) Subject to the provisions of this Act, any" and inserting in lieu thereof the following:

"(a) APPLICATION FOR INSURANCE.—

"(1) NATIONAL AND STATE NONMEMBER BANKS; STATE SAVINGS ASSOCIATIONS.—Any";

(2) in the 1st sentence of subsection (a)(1) (as so redesignated by paragraph (1) of this subsection), by striking out the comma after "State nonmember bank" and inserting in lieu thereof "and State savings association,"; and

(3) in the 2nd sentence of subsection (a)(1) (as so redesignated by paragraph (1) of this subsection)—

(A) by striking out the comma after "State nonmember bank" and inserting in lieu thereof "and State savings association,";

(B) by striking out the comma after "such bank" and inserting in lieu thereof "or savings association,"; and

(C) by inserting "or savings association, and, in the case of an application by a State savings association, the Corporation shall notify the Director of the Office of Thrift Supervision of the Corporation's approval of such application" before the period at the end;

(4) by adding at the end of subsection (a) the following new paragraphs:

"(2) FEDERAL SAVINGS ASSOCIATIONS.—Any Federal savings association shall become an insured depository institution upon—

"(A) application to the Corporation; and

"(B) receipt by the Corporation of a certificate issued to the Corporation by the Director which meets the requirements of paragraph (4),

unless insurance is denied by the Board of Directors.

"(3) Interim federal savings associations.—In the case of any interim Federal savings association which is chartered by the Director of the Office of Thrift Supervision and will not open for business, such association shall be an insured depository institution upon the issuance of such association's charter by the Director.

"(4) Certificate requirements.—Any certificate issued to the Corporation under paragraph (2) shall state that the Federal savings association is authorized to transact business as a savings association and that consideration has been given to the factors enumerated in section 6.

"(5) Review requirements.—In reviewing any certificate and application referred to in paragraph (2), the Board of Directors shall consider the factors described in paragraphs (1), (2), (3), (4), and (5) of section 6 in determining whether to deny insurance.

"(6) Notice of denial of application.—If the Board of Directors, after giving due deference to the determination of the Director of the Office of Thrift Supervision with respect to such factors, does not concur in the determination of the Director, the Board of Directors shall promptly notify the Director that insurance has been denied, giving specific reasons in writing for the Corporation's determination with reference to the factors described in paragraphs (1), (2), (3), (4), and (5) of section 6, and no insurance shall be granted.

"(7) Voting requirements.—The authority of the Board of Directors to make any determination to deny insurance under this subsection may not be delegated by the Board of Directors and any such determination may be made only upon a vote of ¾ of all members of the Board of Directors (excluding the Director of the Office of Thrift Supervision).";

(5) in subsection (b)(4), by inserting "and fitness" after character;

(6) in subsection (b)—

(A) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(B) by inserting after paragraph (4) the following:

"(5) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund;"; and

(7) by adding at the end thereof the following new subsections:

"(d) Insurance Fees.—

"(1) Uninsured institutions.—

"(A) In general.—Any institution that becomes insured by the Corporation, and any noninsured branch that becomes insured by the Corporation, shall pay the Corporation any fee which the Corporation may by regulation prescribe, after giving due consideration to the need to establish and maintain reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7.

"(B) Fee credited to appropriate fund.—The fee paid by the depository institution shall be credited to the Bank Insurance Fund if the depository institution becomes a Bank Insurance Fund member, and to the Savings Association Insurance Fund if the depository institution becomes a Savings Association Insurance Fund member.

"(C) Exception for certain depository institutions.—Any depository institution that becomes an insured depository institution by operation of section 4(a) shall not pay any fee.

"(2) CONVERSIONS.—

"(A) IN GENERAL.—

"(i) PRIOR APPROVAL REQUIRED.—No insured depository institution may participate in a conversion transaction without the prior approval of the Corporation.

"(ii) 5-YEAR MORATORIUM ON CONVERSIONS.—Except as provided in subparagraph (C), the Corporation may not approve any conversion transaction before the end of the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(B) CONVERSION DEFINED.—For purposes of this paragraph, the term 'conversion transaction' means—

"(i) the change of status of an insured depository institution from a Bank Insurance Fund member to a Savings Association Insurance Fund member or from a Savings Association Insurance Fund member to a Bank Insurance Fund member;

"(ii) the merger or consolidation of a Bank Insurance Fund member with a Savings Association Insurance Fund member;

"(iii) the assumption of any liability by—

"(I) any Bank Insurance Fund member to pay any deposits of a Savings Association Insurance Fund member; or

"(II) any Savings Association Insurance Fund member to pay any deposits of a Bank Insurance Fund member;

"(iv) the transfer of assets of—

"(I) any Bank Insurance Fund member to any Savings Association Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits of such Bank Insurance Fund member; or

"(II) any Savings Association Insurance Fund member to any Bank Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits of such Savings Association Insurance Fund member.

"(C) APPROVAL DURING MORATORIUM.—The Corporation may approve a conversion transaction at any time if—

"(i) the conversion transaction affects an insubstantial portion, as determined by the Corporation, of the total deposits of each depository institution participating in the conversion transaction;

"(ii) the conversion occurs in connection with the acquisition of a Savings Association Insurance Fund member in default or in danger of default, and the Corporation determines that the estimated financial benefits to the Savings Association Insurance Fund or Resolution Trust Corporation equal or exceed the Corporation's estimate of loss of assessment income to such insurance fund over the remaining balance of the 5-year period referred to in subparagraph (A), and the

Resolution Trust Corporation concurs in the Corporation's determination; or

"(iii) the conversion occurs in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default and the Corporation determines that the estimated financial benefits to the Bank Insurance Fund equal or exceed the Corporation's estimate of the loss of assessment income to the insurance fund over the remaining balance of the 5-year period referred to in subparagraph (A).

"(D) CERTAIN TRANSFERS DEEMED TO AFFECT INSUBSTANTIAL PORTION OF TOTAL DEPOSITS.—For purposes of subparagraph (C)(i), any conversion transaction shall be deemed to affect an insubstantial portion of the total deposits of an insured depository institution, to the extent the aggregate amount of the total deposits transferred in such transaction and in all conversion transactions occurring after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 does not exceed 35 percent of the lesser of—

"(i) the amount which is equal to the sum of—

"(I) the total deposits of such insured depository institution on May 1, 1989; and

"(II) the total amount of net interest credited to the depository institution's deposits during the period beginning on May 1, 1989, and ending on the date of the transfer of deposits in connection with such transaction; or

"(ii) the amount which is equal to the total deposits of such insured depository institution on the date of the transfer of deposits in connection with such transaction.

"(E) EXIT AND ENTRANCE FEES.—Each insured depository institution participating in a conversion transaction shall pay—

"(i) in the case of a conversion transaction in which the resulting or acquiring depository institution is not a Savings Association Insurance Fund member, an exit fee (in an amount to be determined and assessed in accordance with subparagraph (F)) which—

"(I) shall be deposited in the Savings Association Insurance Fund; or

"(II) shall be paid to the Financing Corporation, if the Secretary of the Treasury determines that the Financing Corporation has exhausted all other sources of funding for interest payments on the obligations of the Financing Corporation and orders that such fees be paid to the Financing Corporation;

"(ii) in the case of a conversion transaction in which the resulting or acquiring depository institution is not a Bank Insurance Fund member, an exit fee in an amount to be determined by the Corporation (and assessed in accordance with subparagraph (F)(ii)) which shall be deposited in the Bank Insurance Fund; and "(iii) an entrance fee in an amount to be determined by the Corporation (and assessed in accordance with subparagraph (F)(ii)), except that—

"(I) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Bank Insurance Fund member, the fee shall be the approximate amount which the Corporation calculates as necessary to prevent dilution of the Bank Insurance Fund, and shall be paid to the Bank Insurance Fund; and

"(II) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Savings Association Insurance Fund member, the fee shall be the approximate amount which the Corporation calculates as necessary to prevent dilution of the Savings Association Insurance Fund, and shall be paid to the Savings Association Insurance Fund.

"(F) ASSESSMENT OF EXIT AND ENTRANCE FEES.—

"(i) DETERMINATION OF AMOUNT OF EXIT FEES.—

"(I) CONVERSIONS BEFORE JANUARY 1, 1997.—In the case of any exit fee assessed under subparagraph (E)(i) for any conversion transaction consummated before January 1, 1997, the amount of such fee shall be determined jointly by the Corporation and the Secretary of the Treasury.

"(II) ASSESSMENTS AFTER DECEMBER, 31, 1996.—In the case of any exit fee assessed under subparagraph (E)(i) for any conversion transaction consummated after December 31, 1996, the amount of such fee shall be determined by the Corporation.

Regulations.

"(ii) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit or entrance fee under subparagraph (E).

"(G) CHARTER CONVERSION OF SAIF MEMBERS.—This subsection shall not be construed as prohibiting any savings association which is a Savings Association Insurance Fund member from converting to a bank charter during the period described in subparagraph (A)(ii) if the resulting bank remains a Savings Association Insurance Fund member.

"(3) OPTIONAL CONVERSION THROUGH MERGER.—

"(A) IN GENERAL.—Notwithstanding paragraph (2)(A), any bank holding company that controls any savings association may merge or consolidate the assets and liabilities of such savings association with, or transfer such assets and liabilities to, any subsidiary bank which is a Bank Insurance Fund member with the approval of the appropriate Federal banking agency and the Board of Governors of the Federal Reserve System.

"(B) ASSESSMENTS BY SAIF ON DEPOSITS ATTRIBUTABLE TO FORMER SAVINGS ASSOCIATION.—That portion of the average assessment base of any subsidiary bank referred to in subparagraph (A) for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction described in subparagraph (A)) shall—

"(i) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(ii) shall not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(iii) shall be treated as deposits which are insured by the Savings Association Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account by any bank subsidiary referred to in subparagraph (A) for purposes of determining the amount of the assessment under subparagraph (B)(i) for any semiannual period is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by such bank subsidiary in connection with any transaction described in subparagraph (A) (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the greater of—

"(I) an annual rate of 7 percent; or

"(II) the annual rate of growth of deposits of such subsidiary bank minus the amount of any deposits acquired through the acquisition, in whole or in part, of a Bank Insurance Fund member during such semiannual period.

"(D) DEPOSIT OF ASSESSMENT.—The amount of the assessment referred to in subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund.

"(E) CONDITIONS FOR FEDERAL RESERVE BOARD APPROVAL.—The Board of Governors of the Federal Reserve System may not approve any application by any bank holding company to engage in any transaction described in subparagraph (A) unless such Board determines that—

"(i) the amount which is equal to the aggregate amount of the total assets of all depository institution subsidiaries of such bank holding company is not less than the amount which is equal to 200 percent of the total assets of the savings association (at the time of the proposed transaction);

"(ii) the bank holding company and all bank subsidiaries of such holding company will meet all applicable capital standards upon consummation of the proposed transaction;

"(iii) the transaction is not in substance the acquisition of any Bank Insurance Fund member bank by any Savings Association Insurance Fund member;

"(iv) in the case of any transaction which occurs—

"(I) during the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the savings association had tangible capital of less than 4 percent during the preceding quarter; and

"(II) during the 1-year period beginning after the end of the 1-year period referred to in subclause (I), the savings association had tangible capital of less than 5 percent during the preceding quarter; and

"(v) the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the savings association were a State bank which the bank holding company was applying to acquire.

"(F) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any subsidiary bank referred to in subparagraph (A) is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such bank subsidiary (other than the adjusted attributable deposit amount) which is insured by the Bank Insurance Fund and the adjusted attributable deposit amount which is insured by the Savings Association Insurance Fund pursuant to subparagraph (B)(iii).

"(G) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by the bank described in subparagraph (A) to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) such bank pays the amount of any exit and entrance fee assessed by the Corporation under paragraph (2)(E) with respect to such transaction.

"(e) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—

"(A) LIABILITY ESTABLISHED.—Any insured depository institution shall be liable for any loss incurred by the Corporation, or any loss which the Corporation reasonably anticipates incurring, after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 in connection with—

"(i) the default of a commonly controlled insured depository institution; or

"(ii) any assistance provided by the Corporation to any commonly controlled insured depository institution in danger of default.

"(B) PAYMENT UPON NOTICE.—An insured depository institution shall pay the amount of any liability to the Corporation under subparagraph (A) upon receipt of written notice by the Corporation in accordance with this subsection.

"(C) NOTICE REQUIRED TO BE PROVIDED WITHIN 2 YEARS OF LOSS.—No insured depository institution shall be liable to the Corporation under subparagraph (A) if written notice with respect to such liability is not received by such institution before the end of the 2-year period beginning on the date the Corporation incurred the loss.

"(2) AMOUNT OF COMPENSATION; PROCEDURES.—

"(A) USE OF ESTIMATES.—When an insured depository institution is in default or requires assistance to prevent default, the Corporation shall—

"(i) in good faith, estimate the amount of the loss the Corporation will incur from such default or assistance;

"(ii) if, with respect to such insured depository institution, there is more than 1 commonly controlled insured depository institution, estimate the amount of each such commonly controlled depository institution's share of such liability; and

"(iii) advise each commonly controlled depository institution of the Corporation's estimate of the amount of such institution's liability for such losses.

"(B) PROCEDURES; IMMEDIATE PAYMENT.—The Corporation, after consultation with the appropriate Federal banking agency and the appropriate State chartering agency, shall—

"(i) on a case-by-case basis, establish the procedures and schedule under which any insured depository institution shall reimburse the Corporation for such institution's liability under paragraph (1) in connection with any commonly controlled insured depository institution; or

"(ii) require any insured depository institution to make immediate payment of the amount of such institution's liability under paragraph (1) in connection with any commonly controlled insured depository institution.

"(C) PRIORITY.—The liability of any insured depository institution under this subsection shall have priority with respect to other obligations and liabilities as follows:

"(i) SUPERIORITY.—The liability shall be superior to the following obligations and liabilities of the depository institution:

"(I) Any obligation to shareholders arising as a result of their status as shareholders (including any depository institution holding company or any shareholder or creditor of such company).

"(II) Any obligation or liability owed to any affiliate of the depository institution (including any other insured depository institution), other than any secured obligation which was secured as of May 1, 1989.

"(ii) SUBORDINATION.—The liability shall be subordinate in right and payment to the following obligations and liabilities of the depository institution:

"(I) Any deposit liability (which is not a liability described in clause (i)(II)).

"(II) Any secured obligation, other than any obligation owed to any affiliate of the depository institution (including any other insured depository institution) which was secured after May 1, 1989.

"(III) Any other general or senior liability (which is not a liability described in clause (i)).

"(IV) Any obligation subordinated to depositors or other general creditors (which is not an obligation described in clause (i)).

"(D) ADJUSTMENT OF ESTIMATED PAYMENT.—

"(i) OVERPAYMENT.—If the amount of compensation estimated by and paid to the Corporation by 1 or more such commonly controlled depository institutions is greater than the actual loss incurred by the Corporation, the Corporation shall reimburse each such commonly controlled depository institution its pro rata share of any overpayment.

"(ii) UNDERPAYMENT.—If the amount of compensation estimated by and paid to the Corporation by 1 or more such commonly controlled depository institutions is less than the actual loss incurred by the Corporation, the Corporation shall redetermine in its discretion the liability of each such commonly controlled depository institution to the Corporation and shall require each such commonly controlled depository institution to make payment of any additional liability to the Corporation.

"(3) REVIEW.—

"(A) JUDICIAL.—Actions of the Corporation shall be reviewable pursuant to chapter 7 of title 5, United States Code.

Regulations.

"(B) ADMINISTRATIVE.—The Corporation shall prescribe regulations and establish administrative procedures which provide for a hearing on the record for the review of—

"(i) the amount of any loss incurred by the Corporation in connection with any insured depository institution;

"(ii) the liability of individual commonly controlled depository institutions for the amount of such loss; and

"(iii) the schedule of payments to be made by such commonly controlled depository institutions.

"(4) LIMITATION ON RIGHTS OF PRIVATE PARTIES.—To the extent the exercise of any right or power of any person would impair the ability of any insured depository institution to perform such institution's obligations under this subsection—

"(i) the obligations of such insured depository institution shall supersede such right or power; and

"(ii) no court may give effect to such right or power with respect to such insured depository institution.

"(5) WAIVER AUTHORITY.—

"(A) IN GENERAL.—The Corporation, in its discretion, may exempt any insured depository institution from the provisions of this subsection if the Corporation determines that such exemption is in the best interests of the Bank Insurance Fund or the Savings Association Insurance Fund.

"(B) CONDITION.—During the period any exemption granted to any insured depository institution under subparagraph (A) or (C) is in effect, such insured depository institution and all other insured depository institution affiliates of such depository institution shall comply fully with the restrictions of sections 23A and 23B of the Federal Reserve Act without regard to section 23A(d)(1).

"(C) LIMITED PARTNERSHIPS.—

"(i) IN GENERAL.—The Corporation may, in its discretion, exempt any limited partnership and any affiliate of any limited partnership (other than any insured depository institution which is a majority owned subsidiary of such partnership) from the provisions of this subsection if such limited partnership or affiliate has filed a registration statement with the Securities and Exchange Commission on or before April 10, 1989, indicating that as of the date of such filing such partnership intended to acquire 1 or more insured depository institutions.

"(ii) REVIEW AND NOTICE.—Within 10 business days after the date of submission of any request for an exemption under this subparagraph together with such information as shall be reasonably requested by the Corporation, the Corporation shall make a determination on the request and shall so advise the applicant.

"(6) 5-YEAR TRANSITION RULE.—During the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(A) no Savings Association Insurance Fund member shall have any liability to the Corporation under this subsection arising out of assistance provided by the Corporation or any loss incurred by the Corporation as a result of the default of a Bank Insurance Fund member which was acquired by such Savings Association Insurance Fund member or any affiliate of such member before the date of the enactment of such Act; and

"(B) no Bank Insurance Fund member shall have such liability with respect to assistance provided by or loss incurred by the Corporation as a result of the default of a Savings Association Insurance Fund member which was acquired by such Bank Insurance Fund member or any affiliate of such member before the date of the enactment of such Act.

"(7) EXCLUSION FOR INSTITUTIONS ACQUIRED IN DEBT COLLECTIONS.—Any depository institution shall not be treated as commonly controlled, for purposes of this subsection, during the 5-year period beginning on the date of an acquisition described in subparagraph (A) or such longer period as the Corporation may determine after written application by the acquirer, if—

"(A) 1 depository institution controls another by virtue of ownership of voting shares acquired in securing or collecting a debt previously contracted in good faith; and

"(B) during the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending upon the expiration of the exclusion, the controlling bank and all other insured depository institution affiliates of such controlling bank comply fully with the restrictions of sections 23A and 23B of the Federal Reserve Act, without regard to section 23A(d)(1) of such Act, in transactions with the acquired insured depository institution.

"(8) EXCEPTION FOR CERTAIN FSLIC ASSISTED INSTITUTIONS.—No depository institution shall have any liability to the Corporation under this subsection as the result of the default of, or assistance provided with respect to, an insured depository institution which is an affiliate of such depository institution if—

"(A) such affiliate was receiving cash payments from the Federal Savings and Loan Insurance Corporation under an assistance agreement or note entered into before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(B) the Federal Savings and Loan Insurance Corporation, or such other entity which has succeeded to the payment obligations of such Corporation with respect to such assistance agreement or note, is unable to continue such payments; and

"(C) such affiliate—

"(i) is in default or in need of assistance solely as a result of the failure to meet the payment obligations referred to in subparagraph (B); and

"(ii) is not otherwise in breach of the terms of any assistance agreement or note which would authorize the Federal Savings and Loan Insurance Corporation or such other successor entity, pursuant to the terms of such assistance agreement or note, to refuse to make such payments.

"(9) COMMONLY CONTROLLED DEFINED.—For purposes of this subsection, depository institutions are commonly controlled if—

"(A) such institutions are controlled by the same depository institution holding company (including any company required to file reports pursuant to section 4(f)(6) of the Bank Holding Company Act of 1956); or

"(B) 1 depository institution is controlled by another depository institution.".

(b) NEWLY INSURED THRIFT PROVISION.—Any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act, as added by section 204(c) of this Act)— 12 USC 1815 note.

(1) which was an insured institution (as defined in section 401(a) of the National Housing Act, as in effect before the date of the enactment of this Act) on the day before the date of the enactment of this Act;

(2) the board of directors of which determined, before April 1, 1987, to terminate such association's status as an insured institution (as so defined) as evidenced in sworn minutes of the board of directors meeting held before such date;

(3) had insured deposits of less than $11,000,000 on April 1, 1987; and

(4) was an insured institution (as so defined) for less than 1 year as of April 1, 1987,

may cease to be a Savings Association Insurance Fund member and become a Bank Insurance Fund member at any time during the 2-year period beginning on the date of the enactment of this Act without the approval of the Federal Deposit Insurance Corporation under section 5(d)(2) of the Federal Deposit Insurance Act (as added by subsection (a) of this section) and without incurring any liability for any exit or entrance fee imposed under such section 5(d)(2).

SEC. 207. INSURABILITY FACTORS.

Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816) is amended to read as follows:

"SEC. 6. FACTORS TO BE CONSIDERED.

"The factors that are required, under section 4, to be considered in connection with, and enumerated in, any certificate issued pursuant to section 4 and that are required, under section 5, to be considered by the Board of Directors in connection with any determination by such Board pursuant to section 5 are the following:

"(1) The financial history and condition of the depository institution.

"(2) The adequacy of the depository institution's capital structure.

"(3) The future earnings prospects of the depository institution.

"(4) The general character and fitness of the management of the depository institution.

"(5) The risk presented by such depository institution to the Bank Insurance Fund or the Savings Association Insurance Fund.

"(6) The convenience and needs of the community to be served by such depository institution.

"(7) Whether the depository institution's corporate powers are consistent with the purposes of this Act.".

SEC. 208. ASSESSMENTS.

Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(1) in subsection (a)(2)—

(A) by inserting ", the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank," after "Comptroller of the Currency" each place such term appears (except after "Comptroller of the Currency,");

(B) by inserting "the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, any Federal home loan bank," after "Comptroller of the Currency,";

(C) by striking out "either" in the 1st sentence and inserting in lieu thereof "any";

(D) in the last sentence of subparagraph (A), by inserting "or savings associations" after "banks";

(E) by striking out "State nonmember bank (except a District bank)" and inserting in lieu thereof "depository institution"; and

(F) by striking out subparagraph (B) and inserting the following:

"(B) ADDITIONAL REPORTS.—The Board of Directors may from time to time require any insured depository institution to file such additional reports as the Corporation, after agreement with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision, as appropriate, may deem advisable for insurance purposes.";

(2) in subsection (a)(3)—

(A) by striking out "Each insured State nonmember bank" and all that follows through "four reports" and inserting the following: "Each insured depository institution shall make to the appropriate Federal banking agency 4 reports";

(B) by striking out "bank" each place such term appears in the 2nd, 5th, and 6th sentences and inserting in lieu thereof "depository institution";

(C) by striking out "insured national, District" and all that follows through "member bank" in the 7th sentence and inserting in lieu thereof "insured depository institution"; and

(D) by inserting "or savings associations" after "banks" in the last sentence;

(3) in subsection (a)(4), by striking out "bank", "bank's", and "banks" each place such terms appear (except in "foreign bank") and inserting in lieu thereof "depository institution", "depository institution's", and "depository institutions", respectively;

(4) by striking out paragraphs (1) and (2) of subsection (b) and inserting the following:

"(1) ASSESSMENT RATES.—

"(A) ANNUAL ASSESSMENT RATES PRESCRIBED.—

"(i) The Corporation shall set assessment rates for insured depository institutions annually.

"(ii) The Corporation shall fix the annual assessment rate of Bank Insurance Fund members independently from the annual assessment rate for Savings Association Insurance Fund members.

"(iii) The Corporation shall, by September 30 of each year, announce the assessment rates for the succeeding calendar year.

"(B) DESIGNATED RESERVE RATIO DEFINED.—

"(i) The designated reserve ratio of the Bank Insurance Fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) such higher percentage of estimated insured deposits, not exceeding 1.50 percent, as the Board of Directors determines for that year to be justified by circumstances that raise a significant risk of substantial future losses to the Bank Insurance Fund.

"(ii) The designated reserve ratio of the Savings Association Insurance Fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) such higher percentage of estimated insured deposits, not exceeding 1.50 percent, as the Board of Directors determines for that year to be justified by circumstances that raise a significant risk of substantial future losses to the Savings Association Insurance Fund.

"(iii) The Board of Directors shall—

"(I) maintain reserves in the Bank Insurance Fund received pursuant to clause (i)(II) as Supplemental Reserves in the Bank Insurance Fund;

"(II) allocate each calendar quarter to an Earnings Participation Account in the Bank Insurance Securities.

Fund the investment income earned by the Bank Insurance Fund on such Supplemental Reserves in the preceding calendar quarter;

"(III) distribute such Earnings Participation Account at the conclusion of each calendar year to Bank Insurance Fund members; and

"(IV) distribute such Supplemental Reserves to Bank Insurance Fund members if and to the extent the Corporation determines that such Supplemental Reserves are not needed to satisfy the projected designated reserve ratio for the next succeeding calendar year.

"(iv) The Board of Directors shall—

"(I) maintain reserves in the Savings Association Insurance Fund received pursuant to clause (ii)(II) as Supplemental Reserves in the Savings Association Insurance Fund;

Securities.

"(II) allocate each calendar quarter to an Earnings Participation Account in the Savings Association Insurance Fund the investment income earned by the Savings Association Insurance Fund on such Supplemental Reserves in the preceding calendar quarter;

"(III) distribute such Earnings Participation Account at the conclusion of each calendar year to Savings Association Insurance Fund members; and

"(IV) distribute such Supplemental Reserves to Savings Association Insurance Fund members if and to the extent the Corporation determines that such Supplemental Reserves are not needed to satisfy the projected designated reserve ratio for the next succeeding calendar year.

"(C) ASSESSMENT RATE FOR BANK INSURANCE FUND MEMBERS.—The annual assessment rate for Bank Insurance Fund members shall be—

"(i) until December 31, 1989, $\frac{1}{12}$ of 1 percent;

"(ii) from January 1, 1990, through December 31, 1990, 0.12 percent;

"(iii) on and after January 1, 1991, 0.15 percent;

"(iv) on January 1 of a calendar year in which the reserve ratio of the Bank Insurance Fund is expected to be less than the designated reserve ratio by determination of the Board of Directors, such rate determined by the Board of Directors to be appropriate to restore the reserve ratio to the designated reserve ratio within a reasonable period of time, after taking into consideration the expected operating expenses, case resolution expenditures, and investment income of the Bank Insurance Fund, and the impact on insured bank earnings and capitalization, except that—

"(I) from the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 until the earlier of January 1, 1995, or January 1 of the calendar year in which the Bank Insurance Fund reserve ratio is expected to first attain the designated reserve ratio, the rate shall be as specified in clauses (i), (ii), and (iii) of this subparagraph so long as the Bank Insurance Fund reserve ratio is increasing on a calendar year basis;

"(II) the rate shall not exceed 0.325 percent; and

"(III) the increase in the rate in any 1 year shall not exceed 0.075 percent; and

"(v) sufficient to ensure that for each member in each year the assessment shall not be less than $1,000.

"(D) ASSESSMENT RATE FOR SAVINGS ASSOCIATION INSURANCE FUND MEMBERS.—The annual assessment rate for Savings Association Insurance Fund members shall be—

"(i) until December 31, 1990, 0.208 percent;

"(ii) from January 1, 1991, through December 31, 1993, 0.23 percent;

"(iii) from January 1, 1994, through December 31, 1997, 0.18 percent;

"(iv) on and after January 1, 1998, 0.15 percent;

"(v) on January 1 of a calendar year in which the reserve ratio of the Savings Association Insurance Fund is expected to be less than the designated reserve ratio by determination of the Board of Directors, such rate determined by the Board of Directors to be appropriate to restore the reserve ratio to the designated reserve ratio within a reasonable period of time, after taking into consideration the expected expenses and income of the Savings Association Insurance Fund, and the effect on insured savings association earnings and capitalization, except that—

"(I) from the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 through December 31, 1994, the rate shall be as specified in clauses (i), (ii), and (iii) above;

"(II) the rate shall not exceed 0.325 percent; and

"(III) the increase in the rate in any one year shall not exceed 0.075 percent; and

"(vi) sufficient to ensure that for each member in each year the assessment shall not be less than $1,000.

"(E) FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation and the Funding Corporation under sections 21 and 21B, respectively, of the Federal Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(F) SPECIAL RULE TO ALLOW CONTINUING ASSESSMENTS BY THE FINANCING CORPORATION AND THE FUNDING CORPORATION DURING PREMIUM YEAR ADJUSTMENTS.—In order to ensure that the Financing Corporation and the Resolution Funding Corporation obtain sufficient funds for interest payments on obligations of such corporations, the Corporation, in coordination with the Financing Corporation and the Secretary of the Treasury, may prescribe such regulations as may be necessary to allow the Financing Corporation and the Resolution Funding Corporation to impose assessments against Savings Association Insurance

Fund members pursuant to sections 21 and 21B, respectively, of the Federal Home Loan Bank Act during the period required to change such members' premium year from the 1-year period applicable under section 404(b) of the National Housing Act (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) to a calendar year basis.

"(2) ASSESSMENT PROCEDURES.—

"(A) SEMIANNUAL ASSESSMENTS.—Except as provided in subsection (c)(2)—

"(i) the semiannual assessment due from any Bank Insurance Fund member for any semiannual period shall be equal to the product of—

"(I) ½ the annual assessment rate applicable to such Bank Insurance Fund member; and

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period; and

"(ii) the semiannual assessment due from any Savings Association Insurance Fund member for any semiannual period shall be equal to the product of—

"(I) ½ the annual assessment rate applicable to such Savings Association Insurance Fund member; and

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period.

"(B) DEFINITION.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.";

(5) by amending subsection (d) to read as follows:

"(d) ASSESSMENT CREDITS.—

"(1) IN GENERAL.—

"(A) By September 30 of each calendar year, the Corporation shall prescribe and publish the aggregate amount to be credited to insured depository institutions in the succeeding calendar year.

"(B) Each insured depository institution shall be notified by the Corporation of the percentage by which the assessment rate should be reduced in computing its net premium.

"(C) Any outstanding obligations owed to the Corporation by an individual insured depository institution shall be deducted from any assessment credit to be credited to such depository institution.

"(2) ASSESSMENT CREDIT FOR INSURED BANKS.—

"(A) CREDIT BARRED.—The Board of Directors shall not prescribe an assessment credit to Bank Insurance Fund members if the Board of Directors determines that the Bank Insurance Fund reserve ratio is expected to be equal to or less than the designated reserve ratio in the coming year after taking into consideration such Fund's expected expenses and income.

"(B) CREDIT AUTHORIZED.—If the Board of Directors determines, after taking into consideration the Bank Insurance Fund's expected operating expenses, case resolution expenditures, investment income, and assessment income, that the Bank Insurance Fund reserve ratio is expected to exceed the designated reserve ratio in the succeeding year, the Board of Directors shall prescribe an assessment credit to Bank Insurance Fund members in such succeeding calendar year equal to the lesser of—

"(i) the amount necessary to reduce the Bank Insurance Fund reserve ratio to the designated reserve ratio; or

"(ii) 100 percent of the net assessment income to be received from Bank Insurance Fund members in such succeeding year.

"(3) Assessment credit for insured savings associations.—

"(A) Credit barred.—The Board of Directors shall not prescribe an assessment credit to Savings Association Insurance Fund members if the Board of Directors determines that the Savings Association Insurance Fund reserve ratio is expected to be equal to or less than the designated reserve ratio in the coming year after taking into consideration such Fund's expected expenses and income.

"(B) Credit authorized.—If the Board of Directors determines, after taking into consideration the Savings Association Insurance Fund's expected expenses and income, that the Savings Association Insurance Fund reserve ratio is expected to exceed the designated reserve ratio in the succeeding year, the Board of Directors shall prescribe an assessment credit to Savings Association Insurance Fund members in such succeeding calendar year equal to the lesser of—

"(i) the amount necessary to reduce the Savings Association Insurance Fund reserve ratio to the designated reserve ratio; or

"(ii) 100 percent of the net assessment income to be received from Savings Association Insurance Fund members in such succeeding year.

"(4) Net assessment income defined.—For purposes of this subsection—

"(A) In general.—The term 'net assessment income' means—

"(i) with respect to the Bank Insurance Fund, the Bank Insurance Fund net assessment income (as defined in subparagraph (B)); and

"(ii) with respect to the Savings Association Insurance Fund, the Savings Association Insurance Fund net assessment income (as defined in subparagraph (C)).

"(B) Bank insurance fund net assessment income.—

"(i) In general.—The term 'Bank Insurance Fund net assessment income' means—

"(I) the total assessments which become due during the calendar year with respect to members of such Fund, minus

"(II) the sum of the amount of the operating costs and expenses described in clause (ii) and the amount by which the Bank Insurance Fund's insurance costs described in clause (iii) exceed its investment income for the calendar year.

"(ii) Operating cost and expenses.—For the purposes of this subparagraph, the operating costs and expenses to be deducted from assessments include the operating costs and expenses of—

"(I) the Corporation for the calendar year directly attributable to the Bank Insurance Fund; and

"(II) the Bank Insurance Fund.

"(iii) INSURANCE COSTS.—For purposes of this subparagraph, the insurance costs include—

"(I) additions to the Bank Insurance Fund's reserve to provide for insurance losses during the calendar year, excluding any adjustments to such reserve which result in a reduction of such reserve; and

"(II) the insurance losses sustained in such calendar year.

"(C) SAVINGS ASSOCIATION INSURANCE FUND NET ASSESSMENT INCOME.—

"(i) IN GENERAL.—The term 'Savings Association Insurance Fund net assessment income' means—

"(I) the total assessments which become due during the calendar year with respect to members of such Fund, minus

"(II) the sum of the amount of the operating costs and expenses described in clause (ii) and the amount by which the Savings Association Insurance Fund's insurance costs described in clause (iii) exceed its investment income for the calendar year.

"(ii) OPERATING COST AND EXPENSES.—For purposes of this subparagraph, the operating costs and expenses to be deducted from assessments include the operating costs and expenses of—

"(I) the Corporation for the calendar year directly attributable to the Savings Association Insurance Fund; and

"(II) the Savings Association Insurance Fund.

"(iii) INSURANCE COSTS.—For the purposes of this subparagraph, the insurance costs include—

"(I) additions to the Savings Association Insurance Fund's reserve to provide for insurance losses during the calendar year, excluding any adjustments to such reserve which result in a reduction of such reserve; and

"(II) the insurance losses sustained in such calendar year.

"(5) INVESTMENT INCOME DEFINED.—For purposes of this subsection, the term 'investment income' means—

"(A) for the Bank Insurance Fund, interest, dividends, and net market gains earned on investments of the Bank Insurance Fund; and

"(B) for the Savings Association Insurance Fund, interest, dividends, and net market gains earned on investments of the Savings Association Insurance Fund.".

(6) in paragraphs (3), (4), (5), (6), (7), and (8) of subsection (b), by striking out "bank", "bank's", and "banks" each place such term appears (except where "foreign" precedes any of such terms) and inserting in lieu thereof "depository institution",

"depository institution's", and "depository institutions", respectively;

(7) in subsections (c), (e), (f), (g), and (i), by striking out "bank" each place such term appears and inserting in lieu thereof "depository institution";

(8) in subsection (j)(1), by striking out the last sentence;

(9) in subsection (j)(2)(A)—

(A) by striking out "failure" and inserting in lieu thereof "default"; and

(B) by striking out "bank" each place such term appears and inserting in lieu thereof "depository institution";

(10) in subsection (j)(2)(D), by inserting "unless such agency determines that an emergency exists," after "shall,";

(11) in subsection (j)(7)—

(A) by striking out "or" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) the appropriate Federal banking agency determines that the proposed transaction would result in an adverse effect on the Bank Insurance Fund or the Savings Association Insurance Fund.";

(12) by amending subsection (j)(17) to read as follows:

"(17) EXCEPTIONS.—This subsection shall not apply with respect to a transaction which is subject to—

"(A) section 3 of the Bank Holding Company Act of 1956;

"(B) section 18(c) of this Act; or

"(C) section 10 of the Home Owners' Loan Act.";

(13) by adding at the end of subsection (j) the following new paragraph:

"(18) APPLICABILITY OF CHANGE IN CONTROL PROVISIONS TO OTHER INSTITUTIONS.—For purposes of this subsection, the term 'insured depository institution' includes—

"(A) any depository institution holding company; and

"(B) any other company which controls an insured depository institution and is not a depository institution holding company.";

(14) by adding at the end thereof the following new subsection:

"(l) DESIGNATION OF FUND MEMBERSHIP FOR NEWLY INSURED DEPOSITORY INSTITUTIONS; DEFINITIONS.—For purposes of this section:

"(1) BANK INSURANCE FUND.—Any institution which—

"(A) becomes an insured depository institution; and

"(B) does not become a Savings Association Insurance Fund member pursuant to paragraph (2),

shall be a Bank Insurance Fund member.

"(2) SAVINGS ASSOCIATION INSURANCE FUND.—Any savings association, other than any Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act, which becomes an insured depository institution shall be a Savings Association Insurance Fund member.

"(3) TRANSITION PROVISION.—

"(A) BANK INSURANCE FUND.—Any depository institution the deposits of which were insured by the Federal Deposit Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including—

"(i) any Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act; and

"(ii) any cooperative bank,

shall be a Bank Insurance Fund member as of such date of enactment.

"(B) SAVINGS ASSOCIATION INSURANCE FUND.—Any savings association which is an insured depository institution by operation of section 4(a)(2) shall be a Savings Association Insurance Fund member as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(4) BANK INSURANCE FUND MEMBER.—The term 'Bank Insurance Fund member' means any depository institution the deposits of which are insured by the Bank Insurance Fund.

"(5) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means any depository institution the deposits of which are insured by the Savings Association Insurance Fund.

"(6) BANK INSURANCE FUND RESERVE RATIO.—The term 'Bank Insurance Fund reserve ratio' means the ratio of the net worth of the Bank Insurance Fund to the value of the aggregate estimated insured deposits held in all Bank Insurance Fund members.

"(7) SAVINGS ASSOCIATION INSURANCE FUND RESERVE RATIO.—The term 'Savings Association Insurance Fund reserve ratio' means the ratio of the value of the net worth of the Savings Association Insurance Fund to the value of the aggregate estimated insured deposits held in all Savings Association Insurance Fund members.";

(15) by adding after the subsection added by paragraph (14) of this section the following new subsections:

"(m) SECONDARY RESERVE OFFSETS AGAINST PREMIUMS.—

"(1) OFFSETS IN CALENDAR YEARS BEGINNING BEFORE 1993.—Subject to the maximum amount limitation contained in paragraph (2) and notwithstanding any other provision of law, any insured savings association may offset such association's pro rata share of the statutorily prescribed amount against any premium assessed against such association under subsection (b) of this section for any calendar year beginning before 1993.

"(2) ANNUAL MAXIMUM AMOUNT LIMITATION.—The amount of any offset allowed for any savings association under paragraph (1) for any calendar year beginning before 1993 shall not exceed an amount which is equal to 20 percent of such association's pro rata share of the statutorily prescribed amount (as computed for such calendar year).

"(3) OFFSETS IN CALENDAR YEARS BEGINNING AFTER 1992.—Notwithstanding any other provision of law, a savings association may offset such association's pro rata share of the statutorily prescribed amount against any premium assessed against such association under subsection (b) for any calendar year beginning after 1992.

"(4) TRANSFERABILITY.—No right, title, or interest of any insured depository institution in or with respect to its pro rata share of the secondary reserve shall be assignable or transferable whether by operation of law or otherwise, except to the extent that the Corporation may provide for transfer of such pro rata share in cases of merger or consolidation, transfer of bulk assets or assumption of liabilities, and similar transactions, as defined by the Corporation for purposes of this paragraph.

"(5) PRO RATA DISTRIBUTION ON TERMINATION OF INSURED STATUS.—If—

"(A) the status of any savings association as an insured depository institution is terminated pursuant to any provision of section 8 or the insurance of accounts of any savings association institution is otherwise terminated;

"(B) a receiver or other legal custodian is appointed for the purpose of liquidation or winding up the affairs of any savings association; or

"(C) the Corporation makes a determination that for the purposes of this subsection any savings association has otherwise gone into liquidation,

the Corporation shall pay in cash to such institution its pro rata share of the secondary reserve, in accordance with such terms and conditions as the Corporation may prescribe, or, at the option of the Corporation, the Corporation may apply the whole or any part of the amount which would otherwise be paid in cash toward the payment of any indebtedness or obligation, whether matured or not, of such institution to the Corporation, existing or arising before such payment in cash. Such payment or such application need not be made to the extent that the provisions of the exception in paragraph (4) are applicable.

"(6) STATUTORILY PRESCRIBED AMOUNT DEFINED.—For purposes of this subsection, the term 'statutorily prescribed amount' means, with respect to any calendar year which ends after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(A) $823,705,000, minus

"(B) the sum of—

"(i) the aggregate amount of offsets made before such date of enactment by all insured institutions under section 404(e)(2) of the National Housing Act (as in effect before such date of enactment); and

"(ii) the aggregate amount of offsets made by all savings associations under this subsection before the beginning of such calendar year.

"(7) SAVINGS ASSOCIATION'S PRO RATA AMOUNT.—For purposes of this subsection, any savings association's pro rata share of the statutorily prescribed amount is the percentage which is equal to such association's share of the secondary reserve as determined under section 404(e) of the National Housing Act on the day before the date on which Federal Savings and Loan Insurance Corporation ceased to recognize the secondary reserve (as such Act was in effect on the day before such date).

"(8) YEAR OF ENACTMENT RULE.—With respect to the calendar year in which the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is enacted, the Corporation shall make such adjustments as may be necessary—

"(A) in the computation of the statutorily prescribed amount which shall be applicable for the remainder of such calendar year after taking into account the aggregate amount of offsets by all insured institutions under section 404(e)(2) of the National Housing Act (as in effect before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) after the beginning of such calendar year and before such date of enactment; and

"(B) in the computation of the maximum amount of any savings association's offset for such calendar year under paragraph (1) after taking into account—

"(i) the amount of any offset by such savings association under section 404(e)(2) of the National Housing Act (as in effect before such date of enactment) after the beginning of such calendar year and before such date of enactment; and

"(ii) the change of such association's premium year from the 1-year period applicable under section 404(b) of the National Housing Act (as in effect before such date of enactment) to a calendar year basis.

"(n) COLLECTIONS ON BEHALF OF THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—When requested by the Director of the Office of Thrift Supervision, the Corporation shall collect on behalf of the Director assessments on savings associations levied by the Director under section 9 of the Home Owners' Loan Act. The Corporation shall be reimbursed for its actual costs for the collection of such assessments. Any such assessments by the Director shall be in addition to any amounts assessed by the Corporation, the Financing Corporation, and the Resolution Funding Corporation.".

SEC. 209. CORPORATE POWERS OF THE FDIC.

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended—

(1) by striking out "bank" and "banks" each place such terms appear (except in the last sentence of the paragraph designated the "Fourth") and inserting in lieu thereof "depository institution" and "depository institutions", respectively; and

(2) by striking out "Upon the date" and inserting the following:

"(a) IN GENERAL.—Upon the date";

(3) by amending the paragraph designated the "Fourth" to read as follows:

"Fourth. To sue and be sued, and complain and defend, in any court of law or equity, State or Federal."; and

(4) by adding at the end thereof the following new subsection:

"(b) AGENCY AUTHORITY.—

"(1) STATUS.—The Corporation, in any capacity, shall be an agency of the United States for purposes of section 1345 of title 28, United States Code, without regard to whether the Corporation commenced the action.

"(2) FEDERAL COURT JURISDICTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), all suits of a civil nature at common law or in equity to which the Corporation, in any capacity, is a party shall be deemed to arise under the laws of the United States.

"(B) REMOVAL.—Except as provided in subparagraph (D), the Corporation may, without bond or security, remove any action, suit, or proceeding from a State court to the appropriate United States district court.

"(C) **Appeal of remand.**—The Corporation may appeal any order of remand entered by any United States district court.

"(D) **State actions.**—Except as provided in subparagraph (E), any action—

"(i) to which the Corporation, in the Corporation's capacity as receiver of a State insured depository institution by the exclusive appointment by State authorities, is a party other than as a plaintiff;

"(ii) which involves only the preclosing rights against the State insured depository institution, or obligations owing to, depositors, creditors, or stockholders by the State insured depository institution; and

"(iii) in which only the interpretation of the law of such State is necessary,

shall not be deemed to arise under the laws of the United States.

"(E) **Rule of construction.**—Subparagraph (D) shall not be construed as limiting the right of the Corporation to invoke the jurisdiction of any United States district court in any action described in such subparagraph if the institution of which the Corporation has been appointed receiver could have invoked the jurisdiction of such court.

"(3) **Service of process.**—The Board of Directors shall designate agents upon whom service of process may be made in any State, territory, or jurisdiction in which any insured depository institution is located.

"(4) **Bonds or fees.**—The Corporation shall not be required to post any bond to pursue any appeal and shall not be subject to payments of any filing fees in United States district courts or courts of appeal.".

SEC. 210. ADMINISTRATION OF CORPORATION.

(a) **Examination Authority.**—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended to read as follows:

"(b) **Examinations.**—

"(1) **Appointment of examiners and claims agents.**—The Board of Directors shall appoint examiners and claim agents.

"(2) **Regular examinations.**—Any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to examine—

"(A) any insured State nonmember bank (except a District bank) or insured State branch of any foreign bank;

"(B) any savings association, State nonmember bank, or State branch of a foreign bank, or other depository institution which files an application with the Corporation to become an insured depository institution; and

"(C) any insured depository institution in default,

whenever the Board of Directors determines an examination of any such depository institution is necessary.

"(3) **Special examination of any insured depository institution.**—In addition to the examinations authorized under paragraph (2), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make any special examination of any insured depository institution whenever the Board of Directors determines a special examination of any such depository institution is necessary to determine the condition of such depository institution for insurance purposes.

"(4) EXAMINATION OF AFFILIATES.—

"(A) IN GENERAL.—In making any examination under paragraph (2) or (3), any examiner appointed under paragraph (1) shall have power, on behalf of the Corporation, to make such examinations of the affairs of any affiliate of any insured depository institution as may be necessary to disclose fully—

"(i) the relationship between such insured depository institution and any such affiliate; and

"(ii) the effect of such relationship on the insured depository institution.

"(B) COMMITMENT BY FOREIGN BANKS TO ALLOW EXAMINATIONS OF AFFILIATES.—No branch or depository institution subsidiary of a foreign bank may become an insured depository institution unless such foreign bank submits a written binding commitment to the Board of Directors to permit any examination of any affiliate of such branch or depository institution subsidiary pursuant to subparagraph (A) to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act.

"(5) POWER AND DUTY OF EXAMINERS.—Each examiner appointed under paragraph (1) shall—

"(A) have power to make a thorough examination of any insured depository institution or affiliate under paragraph (2), (3), or (4); and

Reports.

"(B) shall make a full and detailed report of condition of any insured depository institution or affiliate examined to the Corporation.

"(6) POWER OF CLAIM AGENTS.—Each claim agent appointed under paragraph (1) shall have power to investigate and examine all claims for insured deposits.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 10(c) of the Federal Deposit Insurance Act (12 U.S.C. 1820(c)) is amended by striking out ", State nonmember banks or other institutions" and inserting in lieu thereof "and any State nonmember bank, savings association, or other institution".

(2) Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by striking out subsection (d).

SEC. 211. INSURANCE FUNDS.

Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

(1) by striking out paragraph (1) and inserting the following:

"(1) The Corporation shall insure the deposits of all insured depository institutions as provided in this Act. The maximum amount of the insured deposit of any depositor shall be $100,000.";

(2) in paragraph (2)(B), by striking out "time and savings"; and

(3) by adding at the end the following new paragraphs:

"(4) GENERAL PROVISION RELATING TO FUNDS.—The Bank Insurance Fund established under paragraph (5) and the Savings Association Insurance Fund established under paragraph (6) shall each be—

"(A) maintained and administered by the Corporation;

"(B) maintained separately and not commingled; and

"(C) used by the Corporation to carry out its insurance purposes in the manner provided in this subsection.

"(5) **Bank insurance fund.**—

"(A) **Establishment.**—There is established a fund to be known as the Bank Insurance Fund.

"(B) **Transfer to fund.**—On the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Permanent Insurance Fund shall be dissolved and all assets and liabilities of the Permanent Insurance Fund shall be transferred to the Bank Insurance Fund.

"(C) **Uses.**—The Bank Insurance Fund shall be available to the Corporation for use with respect to Bank Insurance Fund members.

"(D) **Deposits.**—All amounts assessed against Bank Insurance Fund members by the Corporation shall be deposited into the Bank Insurance Fund.

"(6) **Savings association insurance fund.**—

"(A) **Establishment.**—There is established a fund to be known as the Savings Association Insurance Fund.

"(B) **Uses.**—The Savings Association Insurance Fund shall be available to the Corporation for use with respect to Savings Association Insurance Fund members.

"(C) **Deposits.**—All amounts assessed against Savings Association Insurance Fund members which are not required for the Financing Corporation, the Resolution Funding Corporation, or the FSLIC Resolution Fund shall be deposited in the Savings Association Insurance Fund.

"(D) **Availability of funds for administrative expenses.**—

"(i) **In general.**—The FSLIC Resolution Fund shall deposit in the Savings Association Insurance Fund such amounts as the Corporation determines are needed during the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on September 30, 1991, to pay the administrative and supervisory expenses of such Fund.

"(ii) **Priority.**—The Savings Association Insurance Fund shall have priority over other obligations of the FSLIC Resolution Fund with respect to such amounts.

"(E) **Treasury payments to fund.**—To provide sufficient funding for the Savings Association Insurance Fund to carry out the purposes of this Act, the Secretary of the Treasury shall pay to such Fund, for each of the fiscal years 1992 through 1999, the amount, if any, by which $2,000,000,000 exceeds the amount deposited in such Fund (during such fiscal year) pursuant to subparagraph (C).

"(F) **Treasury payments to maintain net worth of fund.**—The Secretary of the Treasury shall pay to the Savings Association Insurance Fund, for each fiscal year described in the following table, any additional amount which may be necessary, as determined by the Corporation and the Secretary of the Treasury to ensure that such Fund has the minimum net worth referred to in such table throughout each such fiscal year:

"For the fiscal year beginning October 1 of:	The amount of minimum net worth (in billions):
1991	0.0
1992	1.0
1993	2.1
1994	3.2
1995	4.3
1996	5.4
1997	6.5
1998	7.6
1999	8.8

"(G) EXCEPTION TO SUBPARAGRAPHS (E) AND (F).—Notwithstanding subparagraphs (E) and (F), no payment may be made pursuant to such subparagraphs after the Savings Association Insurance Fund achieves a reserve ratio of 1.25 percent.

"(H) DISCRETIONARY RTC PAYMENTS.—If amounts available to the Savings Association Insurance Fund for purposes other than the payment of administrative expenses are insufficient for the Savings Association Insurance Fund to carry out the purposes of this Act, the Corporation may request the Resolution Trust Corporation to provide, and the Oversight Board of the Resolution Trust Corporation (in the discretion of the Oversight Board) may pay, such amount as may be needed for such purposes.

"(I) BORROWING AUTHORITY.—

"(i) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Savings Association Insurance Fund.

"(ii) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under clause (i) to the Savings Association Insurance Fund shall—

"(I) bear a rate of interest of not less than such bank's current marginal cost of funds, taking into account the maturities involved;

"(II) be adequately secured, as determined by the Federal Housing Finance Board;

"(III) be a direct liability of such Fund; and

"(IV) be subject to the limitations of section 15(c).

"(J) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury, such sums as may be necessary to carry out the provisions of this paragraph, except that—

"(i) the annual amount appropriated under subparagraph (F) shall not exceed $2,000,000,000 in either fiscal year 1991 or fiscal year 1992; and

"(ii) the cumulative amount appropriated under subparagraph (F) for fiscal years 1991 through 1999 shall not exceed $16,000,000,000.

"(7) PROVISIONS APPLICABLE TO MAINTENANCE OF ACCOUNTS.—

"(A) CORPORATION'S AUTHORITY.—Any provision of this Act forbidding the commingling of the Bank Insurance Fund with the Savings Association Insurance Fund, or requiring the separate maintenance of the Bank Insurance Fund and the Savings Association Insurance Fund, is not intended—

"(i) to limit or impair the authority of the Corporation to use the same facilities and resources in the course of conducting supervisory, regulatory, conservatorship, receivership, or liquidation functions with respect to banks and savings associations, or to integrate such functions; or

"(ii) to limit or impair the Corporation's power to combine assets or liabilities belonging to banks and savings associations in conservatorship or receivership for managerial purposes, or to limit or impair the Corporation's power to dispose of such assets or liabilities on an aggregate basis.

"(B) ACCOUNTING REQUIREMENTS.—

"(i) ACCOUNTING FOR USE OF FACILITIES AND RESOURCES.—The Corporation shall keep a full and complete accounting of all costs and expenses associated with the use of any facility or resource used in the course of any function specified in subparagraph (A)(i) and shall allocate, in the manner provided in subparagraph (C), any such costs and expenses incurred by the Corporation—

"(I) with respect to Bank Insurance Fund members to the Bank Insurance Fund; and

"(II) with respect to Savings Association Insurance Fund members to the Savings Association Insurance Fund.

"(ii) ACCOUNTING FOR HOLDING AND MANAGING ASSETS AND LIABILITIES.—The Corporation shall keep a full and complete accounting of all costs and expenses associated with the holding and management of any asset or liability specified in subparagraph (A)(ii).

"(iii) ACCOUNTING FOR DISPOSITION OF ASSETS AND LIABILITIES.—The Corporation shall keep a full and complete accounting of all expenses and receipts associated with the disposition of any asset or liability specified in subparagraph (A)(ii).

"(iv) ALLOCATION OF COST, EXPENSES AND RECEIPTS.—The Corporation shall allocate any cost, expense, and receipt described in clause (ii) or clause (iii) which is associated with any asset or liability belonging to—

"(I) any Bank Insurance Fund member to the Bank Insurance Fund; and

"(II) any Savings Association Insurance Fund member to the Savings Association Insurance Fund.

"(C) ALLOCATION OF ADMINISTRATIVE EXPENSES.—Any personnel, administrative, or other overhead expense of the Corporation shall be allocated—

"(i) fully to the Bank Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to Bank Insurance Fund members;

"(ii) fully to the Savings Association Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to Savings Association Insurance Fund members;

"(iii) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative degree to which the expense was incurred as a result of the activities of Bank Insurance Fund and Savings Association Insurance Fund members; or

"(iv) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative total assets as of the end of the preceding calendar year of Bank Insurance Fund members and Savings Association Insurance Fund members, to the extent that the Board of Directors is unable to make a determination under clause (i), (ii), or (iii).".

SEC. 212. CONSERVATORSHIP AND RECEIVERSHIP POWERS OF THE CORPORATION.

(a) Basic Authorities.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by striking out subsections (c) through (j) and inserting the following new subsections:

"(c) Appointment of Corporation as Conservator or Receiver.—

"(1) In general.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation may accept appointment and act as conservator or receiver for any insured depository institution upon appointment in the manner provided in paragraph (2) or (3).

"(2) Federal depository institutions.—

"(A) Appointment.—

"(i) Conservator.—The Corporation may, at the discretion of the supervisory authority, be appointed conservator of any insured Federal depository institution or District bank and the Corporation may accept such appointment.

"(ii) Receiver.—The Corporation shall be appointed receiver, and shall accept such appointment, whenever a receiver is appointed for the purpose of liquidation or winding up the affairs of an insured Federal depository institution or District bank by the appropriate Federal banking agency, notwithstanding any other provision of Federal law (other than section 21A of the Federal Home Loan Bank Act) or the code of law for the District of Columbia.

"(B) Additional powers.—In addition to and not in derogation of the powers conferred and the duties imposed by this section on the Corporation as conservator or receiver, the Corporation, to the extent not inconsistent with such powers and duties, shall have any other power conferred on or any duty (which is related to the exercise of such power) imposed on a conservator or receiver for any Federal depository institution under any other provision of law.

"(C) Corporation not subject to any other agency.—When acting as conservator or receiver pursuant to an appointment described in subparagraph (A), the Corporation shall not be subject to the direction or supervision of any other agency or department of the United States or any

State in the exercise of the Corporation's rights, powers, and privileges.

"(D) **DEPOSITORY INSTITUTION IN CONSERVATORSHIP SUBJECT TO BANKING AGENCY SUPERVISION.**—Notwithstanding subparagraph (C), any Federal depository institution for which the Corporation has been appointed conservator shall remain subject to the supervision of the appropriate Federal banking agency.

"(3) **INSURED STATE DEPOSITORY INSTITUTIONS**—

"(A) **APPOINTMENT BY APPROPRIATE STATE SUPERVISOR.**—Whenever the authority having supervision of any insured State depository institution (other than a District depository institution) appoints a conservator or receiver for such institution and tenders appointment to the Corporation, the Corporation may accept such appointment.

"(B) **ADDITIONAL POWERS.**—In addition to the powers conferred and the duties related to the exercise of such powers imposed by State law on any conservator or receiver appointed under the law of such State for an insured State depository institution, the Corporation, as conservator or receiver pursuant to an appointment described in subparagraph (A), shall have the powers conferred and the duties imposed by this section on the Corporation as conservator or receiver.

"(C) **CORPORATION NOT SUBJECT TO ANY OTHER AGENCY.**—When acting as conservator or receiver pursuant to an appointment described in subparagraph (A), the Corporation shall not be subject to the direction or supervision of any other agency or department of the United States or any State in the exercise of its rights, powers, and privileges.

"(D) **DEPOSITORY INSTITUTION IN CONSERVATORSHIP SUBJECT TO BANKING AGENCY SUPERVISION.**—Notwithstanding subparagraph (C), any insured State depository institution for which the Corporation has been appointed conservator shall remain subject to the supervision of the appropriate State bank or savings association supervisor.

"(4) **APPOINTMENT OF CORPORATION BY THE CORPORATION.**—Except as otherwise provided in section 21A of the Federal Home Loan Bank Act and notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation may appoint itself as sole conservator or receiver of any insured State depository institution if—

"(A) the Corporation determines—

"(i) that—

"(I) a conservator, receiver, or other legal custodian has been appointed for such institution;

"(II) such institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 consecutive days; and

"(III) 1 or more of the depositors in such institution is unable to withdraw any amount of any insured deposit; or

"(ii) that such institution has been closed by or under the laws of any State; and

"(B) the Corporation determines that 1 or more of the grounds specified in paragraph (5)—

"(i) existed with respect to such institution at the time—

"(I) the conservator, receiver, or other legal custodian was appointed; or

"(II) such institution was closed; or

"(ii) exist at any time—

"(I) during the appointment of the conservator, receiver, or other legal custodian; or

"(II) while such institution is closed.

"(5) GROUNDS FOR PARAGRAPH (4) APPOINTMENT.—The grounds referred to in paragraph (4)(B) for the appointment of the Corporation as conservator or receiver for any insured State depository institution are as follows:

"(A) Insolvency in that the assets of the institution are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) Substantial dissipation of assets or earnings due to—

"(i) any violation of any law or regulation; or

"(ii) any unsafe or unsound practice.

"(C) An unsafe or unsound condition to transact business, including substantially insufficient capital or otherwise.

"(D) Any willful violation of a cease-and-desist order which has become final.

"(E) Any concealment of books, papers, records, or assets of the institution or any refusal to submit books, papers, records, or affairs of the institution for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) The likelihood that the institution will not be able to meet the demands of its depositors or pay its obligations in the normal course of business.

"(G) The incurrence or likely incurrence of losses by the institution that will deplete all or substantially all of its capital with no reasonable prospect for the replenishment of the capital of the institution without Federal assistance.

"(H) Any violation of any law or regulation, or an unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the institution or otherwise seriously prejudice the interests of its depositors.

"(6) APPOINTMENT BY DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

"(A) CONSERVATOR.—The Corporation or the Resolution Trust Corporation may, at the discretion of the Director of the Office of Thrift Supervision, be appointed conservator and the Corporation may accept any such appointment.

"(B) RECEIVER.—Whenever the Director of the Office of Thrift Supervision appoints a receiver under the provisions of section 5(d)(2)(C) of the Home Owner's Loan Act for the purpose of liquidation or winding up any savings association's affairs—

"(i) during the 3-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Resolution Trust Corporation shall be appointed; and "(ii) after the end of the 3-year period referred to in clause (i), the Corporation shall be appointed.

"(7) JUDICIAL REVIEW.—If the Corporation appoints itself as conservator or receiver under paragraph (4), the insured State depository institution may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to remove itself as such conservator or receiver, and the court shall, upon the merits, dismiss such action or direct the Corporation to remove itself as such conservator or receiver.

"(8) REPLACEMENT OF CONSERVATOR OF STATE DEPOSITORY INSTITUTION.—

"(A) IN GENERAL.—In the case of any insured State depository institution for which the Corporation appointed itself as conservator pursuant to paragraph (4), the Corporation may, without any requirement of notice, hearing, or other action, replace itself as conservator with itself as receiver of such institution.

"(B) REPLACEMENT TREATED AS REMOVAL OF INCUMBENT.—The replacement of a conservator with a receiver under subparagraph (A) shall be treated as the removal of the Corporation as conservator.

"(C) RIGHT OF REVIEW OF ORIGINAL APPOINTMENT NOT AFFECTED.—The replacement of a conservator with a receiver under subparagraph (A) shall not affect any right of the insured State depository institution to obtain review, pursuant to paragraph (7), of the original appointment of the conservator.

"(9) ADDITIONAL POWERS.—In any case in which the Corporation is appointed conservator or receiver pursuant to paragraph (4) or (6)—

"(A) the provisions of this section shall be applicable to the Corporation, as conservator or receiver of any insured State depository institution in the same manner and to the same extent as if such institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver; and

"(B) the Corporation as receiver of any insured State depository institution may—

"(i) liquidate such institution in an orderly manner; and

"(ii) make such other disposition of any matter concerning such institution as the Corporation determines is in the best interests of the institution, the depositors of such institution, and the Corporation.

"(d) POWERS AND DUTIES OF CORPORATION AS CONSERVATOR OR RECEIVER.—

"(1) RULEMAKING AUTHORITY OF CORPORATION.—The Corporation may prescribe such regulations as the Corporation determines to be appropriate regarding the conduct of conservatorships or receiverships.

"(2) GENERAL POWERS.—

"(A) SUCCESSOR TO INSTITUTION.—The Corporation shall, as conservator or receiver, and by operation of law, succeed to—

"(i) all rights, titles, powers, and privileges of the insured depository institution, and of any stockholder, member, accountholder, depositor, officer, or director of such institution with respect to the institution and the assets of the institution; and

"(ii) title to the books, records, and assets of any previous conservator or other legal custodian of such institution.

"(B) OPERATE THE INSTITUTION.—The Corporation may, as conservator or receiver—

"(i) take over the assets of and operate the insured depository institution with all the powers of the members or shareholders, the directors, and the officers of the institution and conduct all business of the institution;

"(ii) collect all obligations and money due the institution;

"(iii) perform all functions of the institution in the name of the institution which is consistent with the appointment as conservator or receiver; and

"(iv) preserve and conserve the assets and property of such institution.

"(C) FUNCTIONS OF INSTITUTION'S OFFICERS, DIRECTORS, AND SHAREHOLDERS.—The Corporation may, by regulation or order, provide for the exercise of any function by any member or stockholder, director, or officer of any insured depository institution for which the Corporation has been appointed conservator or receiver.

"(D) POWERS AS CONSERVATOR.—The Corporation may, as conservator, take such action as may be—

"(i) necessary to put the insured depository institution in a sound and solvent condition; and

"(ii) appropriate to carry on the business of the institution and preserve and conserve the assets and property of the institution.

"(E) ADDITIONAL POWERS AS RECEIVER.—The Corporation may, as receiver, place the insured depository institution in liquidation and proceed to realize upon the assets of the institution, having due regard to the conditions of credit in the locality.

"(F) ORGANIZATION OF NEW INSTITUTIONS.—The Corporation may, as receiver—

"(i) with respect to savings associations and by application to the Director of the Office of Thrift Supervision, organize a new Federal savings association to take over such assets or such liabilities as the Corporation may determine to be appropriate; and

"(ii) with respect to any insured bank, organize a new national bank under subsection (m) or a bridge bank under subsection (n).

"(G) MERGER; TRANSFER OF ASSETS AND LIABILITIES.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver—

"(I) merge the insured depository institution with another insured depository institution; or

"(II) subject to clause (ii), transfer any asset or liability of the institution in default (including assets and liabilities associated with any trust business) without any approval, assignment, or consent with respect to such transfer.

"(ii) Approval by appropriate federal banking agency.—No transfer described in clause (i)(II) may be made to another depository institution (other than a new bank or a bridge bank established pursuant to subsection (m) or (n)) without the approval of the appropriate Federal banking agency for such institution.

"(H) Payment of valid obligations.—The Corporation, as conservator or receiver, shall pay all valid obligations of the insured depository institution in accordance with the prescriptions and limitations of this Act.

"(I) Incidental powers.—The Corporation may, as conservator or receiver—

"(i) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this Act and such incidental powers as shall be necessary to carry out such powers; and

"(ii) take any action authorized by this Act,

which the Corporation determines is in the best interests of the depository institution, its depositors, or the Corporation.

"(3) Authority of receiver to determine claims.—

"(A) In general.—The Corporation may, as receiver, determine claims in accordance with the requirements of this subsection and regulations prescribed under paragraph (4)(A).

"(B) Notice requirements.—The receiver, in any case involving the liquidation or winding up of the affairs of a closed depository institution, shall—

"(i) promptly publish a notice to the depository institution's creditors to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

"(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

"(C) Mailing required.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the institution's books—

"(i) at the creditor's last address appearing in such books; or

"(ii) upon discovery of the name and address of a claimant not appearing on the institution's books within 30 days after the discovery of such name and address.

"(4) Rulemaking authority relating to determination of claims.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

"(5) Procedures for determination of claims.—

"(A) Determination period.—

"(i) In general.—Before the end of the 180-day period beginning on the date any claim against a depository institution is filed with the Corporation as receiver, the Corporation shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

"(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Corporation.

"(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

"(I) on the depository institution's books;

"(II) in the claim filed by the claimant; or

"(III) in documents submitted in proof of the claim.

"(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

"(I) a statement of each reason for the disallowance; and

"(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

"(B) ALLOWANCE OF PROVEN CLAIMS.—The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver from any claimant which is proved to the satisfaction of the receiver.

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (3)(B)(i) shall be disallowed and such disallowance shall be final.

"(ii) CERTAIN EXCEPTIONS.—Clause (i) shall not apply with respect to any claim filed by any claimant after the date specified in the notice published under paragraph (3)(B)(i) and such claim may be considered by the receiver if—

"(I) the claimant did not receive notice of the appointment of the receiver in time to file such claim before such date; and

"(II) such claim is filed in time to permit payment of such claim.

"(D) AUTHORITY TO DISALLOW CLAIMS.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the Corporation's determination pursuant to subparagraph (D) to disallow a claim.

"(F) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the receiver.

"(6) PROVISION FOR AGENCY REVIEW OR JUDICIAL DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—Before the end of the 60-day period beginning on the earlier of—

"(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a depository institution for which the Corporation is receiver; or

"(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i),

the claimant may request administrative review of the claim in accordance with subparagraph (A) or (B) of paragraph (7) or file suit on such claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the depository institution's principal place of business is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim).

"(B) STATUTE OF LIMITATIONS.—If any claimant fails to—

"(i) request administrative review of any claim in accordance with subparagraph (A) or (B) of paragraph (7); or

"(ii) file suit on such claim (or continue an action commenced before the appointment of the receiver),

before the end of the 60-day period described in subparagraph (A), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(7) REVIEW OF CLAIMS.—

"(A) ADMINISTRATIVE HEARING.—If any claimant requests review under this subparagraph in lieu of filing or continuing any action under paragraph (6) and the Corporation agrees to such request, the Corporation shall consider the claim after opportunity for a hearing on the record. The final determination of the Corporation with respect to such claim shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(B) OTHER REVIEW PROCEDURES.—

"(i) IN GENERAL.—The Corporation shall also establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

"(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Corporation shall strive for procedures which are expeditious, fair, independent, and low cost.

"(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Corporation may establish both binding and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the Corporation, must agree to the use of the process in a particular case.

"(iv) CONSIDERATION OF INCENTIVES.—The Corporation shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

"(8) EXPEDITED DETERMINATION OF CLAIMS.—

"(A) ESTABLISHMENT REQUIRED.—The Corporation shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

"(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any depository institution for which the Corporation has been appointed receiver; and

"(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

"(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Corporation shall—

"(i) determine—

"(I) whether to allow or disallow such claim; or

"(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (5); and

"(ii) notify the claimant of the determination, and if the claim is disallowed, a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

"(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the receiver, seeking a determination of the claimant's rights with respect to such security interest after the earlier of—

"(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

"(ii) the date the Corporation denies the claim.

"(D) STATUTE OF LIMITATIONS.—If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(E) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

"(ii) No PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the receiver.

"(9) AGREEMENT AS BASIS OF CLAIM.—

"(A) REQUIREMENTS.—Except as provided in subparagraph (B), any agreement which does not meet the requirements set forth in section 13(e) shall not form the basis of, or substantially comprise, a claim against the receiver or the Corporation.

"(B) EXCEPTION TO CONTEMPORANEOUS EXECUTION REQUIREMENT.—Notwithstanding section 13(e)(2), any agreement relating to an extension of credit between a Federal home loan bank or Federal Reserve bank and any insured depository institution which was executed before the extension of credit by such bank to such institution shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (A).

"(10) PAYMENT OF CLAIMS.—

"(A) IN GENERAL.—The receiver may, in the receiver's discretion and to the extent funds are available, pay creditor claims which are allowed by the receiver, approved by the Corporation pursuant to a final determination pursuant to paragraph (7) or (8), or determined by the final judgment of any court of competent jurisdiction in such manner and amounts as are authorized under this Act.

"(B) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the receiver's sole discretion, pay dividends on proved claims at any time, and no liability shall attach to the Corporation (in such Corporation's corporate capacity or as receiver), by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(11) DISTRIBUTION OF ASSETS.—

"(A) SUBROGATED CLAIMS; CLAIMS OF UNINSURED DEPOSITORS AND OTHER CREDITORS.—The receiver shall—

"(i) retain for the account of the Corporation such portion of the amounts realized from any liquidation as the Corporation may be entitled to receive in connection with the subrogation of the claims of depositors; and

"(ii) pay to depositors and other creditors the net amounts available for distribution to them.

"(B) DISTRIBUTION TO SHAREHOLDERS OF AMOUNTS REMAINING AFTER PAYMENT OF ALL OTHER CLAIMS AND EXPENSES.— In any case in which funds remain after all depositors, creditors, other claimants, and administrative expenses are paid, the receiver shall distribute such funds to the depository institution's shareholders or members together with the accounting report required under paragraph (14)(C).

"(12) SUSPENSION OF LEGAL ACTIONS.—

"(A) IN GENERAL.—After the appointment of a conservator or receiver for an insured depository institution, the conservator or receiver may request a stay for a period not to exceed—

"(i) 45 days, in the case of any conservator; and "(ii) 90 days, in the case of any receiver,

in any judicial action or proceeding to which such institution is or becomes a party.

"(B) Grant of stay by all courts required.—Upon receipt of a request by any conservator or receiver pursuant to subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

"(13) Additional rights and duties.—

"(A) Prior final adjudication.—The Corporation shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Corporation as conservator or receiver.

"(B) Rights and remedies of conservator or receiver.—In the event of any appealable judgment, the Corporation as conservator or receiver shall—

"(i) have all the rights and remedies available to the insured depository institution (before the appointment of such conservator or receiver) and the Corporation in its corporate capacity, including removal to Federal court and all appellate rights; and

"(ii) not be required to post any bond in order to pursue such remedies.

"(C) No attachment or execution.—No attachment or execution may issue by any court upon assets in the possession of the receiver.

"(D) Limitation on judicial review.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

"(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any depository institution for which the Corporation has been appointed receiver, including assets which the Corporation may acquire from itself as such receiver; or

"(ii) any claim relating to any act or omission of such institution or the Corporation as receiver.

"(14) Statute of limitations for actions brought by conservator or receiver.—

"(A) In general.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Corporation as conservator or receiver shall be—

"(i) in the case of any contract claim, the longer of—

"(I) the 6-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law; and

"(ii) in the case of any tort claim, the longer of—

"(I) the 3-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law.

"(B) Determination of the date on which a claim accrues.—For purposes of subparagraph (A), the date on which the statute of limitation begins to run on any claim described in such subparagraph shall be the later of—

"(i) the date of the appointment of the Corporation as conservator or receiver; or "(ii) the date on which the cause of action accrues.

"(15) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

"(A) IN GENERAL.—The Corporation as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Corporation, maintain a full accounting of each conservatorship and receivership or other disposition of institutions in default.

"(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership to which the Corporation was appointed, the Corporation shall make an annual accounting or report, as appropriate, available to the Secretary of the Treasury, the Comptroller General of the United States, and the authority which appointed the Corporation as conservator or receiver.

"(C) AVAILABILITY OF REPORTS.—Any report prepared pursuant to subparagraph (B) shall be made available by the Corporation upon request to any shareholder of the depository institution for which the Corporation was appointed conservator or receiver or any other member of the public.

"(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date the Corporation is appointed as receiver of an insured depository institution, the Corporation may destroy any records of such institution which the Corporation, in the Corporation's discretion, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

"(16) CONTRACTS WITH STATE HOUSING FINANCE AUTHORITIES.—

"(A) IN GENERAL.—The Corporation may enter into contracts with any State housing finance authority for the sale of mortgage-related assets (as such terms are defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) of any depository institution in default (including assets and liabilities associated with any trust business), such contracts to be effective in accordance with their terms without any further approval, assignment, or consent with respect thereto.

"(B) FACTORS TO CONSIDER.—In evaluating the disposition of mortgage related assets to any State housing finance authority the Corporation shall consider—

"(i) the State housing finance authority's ability to acquire and service current, delinquent, and defaulted mortgage related assets;

"(ii) the State housing finance authority's ability to further national housing policies;

"(iii) the State housing finance authority's sensitivity to the impact of the sale of mortgage related assets upon the State and local communities;

"(iv) the costs to the Federal Government associated with alternative ownership or dispositions of the mortgage related assets;

"(v) the minimization of future guaranties which may be required of the Federal Government;

"(vi) the maximization of mortgage related asset values; and "(vii) the utilization of institutions currently established in mortgage related asset market activities.

"(e) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or receiver may have, the conservator or receiver for any insured depository institution may disaffirm or repudiate any contract or lease—

"(A) to which such institution is a party;

"(B) the performance of which the conservator or receiver, in the conservator's or receiver's discretion, determines to be burdensome; and

"(C) the disaffirmance or repudiation of which the conservator or receiver determines, in the conservator's or receiver's discretion, will promote the orderly administration of the institution's affairs.

"(2) TIMING OF REPUDIATION.—The conservator or receiver appointed for any insured depository institution in accordance with subsection (c) shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

"(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

"(i) limited to actual direct compensatory damages; and

"(ii) determined as of—

"(I) the date of the appointment of the conservator or receiver; or

"(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

"(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' does not include—

"(i) punitive or exemplary damages;

"(ii) damages for lost profits or opportunity; or

"(iii) damages for pain and suffering.

"(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

"(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

"(ii) paid in accordance with this subsection and subsection (k) except as otherwise specifically provided in this section.

"(4) LEASES UNDER WHICH THE INSTITUTION IS THE LESSEE.—

"(A) IN GENERAL.—If the conservator or receiver disaffirms or repudiates a lease under which the insured depository institution was the lessee, the conservator or receiver shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

"(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which such subparagraph applies shall—

"(i) be entitled to the contractual rent accruing before the later of the date—

"(I) the notice of disaffirmance or repudiation is mailed; or

"(II) the disaffirmance or repudiation becomes effective,

unless the lessor is in default or breach of the terms of the lease;

"(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and Claims.

"(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this subsection and subsection (k). Claims.

"(5) LEASES UNDER WHICH THE INSTITUTION IS THE LESSOR.—

"(A) IN GENERAL.—If the conservator or receiver repudiates an unexpired written lease of real property of the insured depository institution under which the institution is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

"(i) treat the lease as terminated by such repudiation; or

"(ii) remain in possession of the leasehold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease after the date of such repudiation.

"(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of such subparagraph—

"(i) the lessee—

"(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease;

"(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the insured depository institution under the lease after such date; and

"(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).

"(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

"(A) IN GENERAL.—If the conservator or receiver repudiates any contract (which meets the requirements of each paragraph of section 13(e)) for the sale of real property and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

"(i) treat the contract as terminated by such repudiation; or

"(ii) remain in possession of such real property.

"(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of such subparagraph—

"(i) the purchaser—

"(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

"(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the depository institution under the contract; and

"(ii) the conservator or receiver shall—

"(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II);

"(II) deliver title to the purchaser in accordance with the provisions of the contract; and

"(III) have no obligation under the contract other than the performance required under subclause (II).

"(C) ASSIGNMENT AND SALE ALLOWED.—

"(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described in subparagraph (A) and sell the property subject to the contract and the provisions of this paragraph.

"(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described in clause (i) is consummated, the conservator or receiver shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

"(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

Claims.

"(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any insured depository institution for which the Corporation has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or the receiver shall be—

"(i) a claim to be paid in accordance with subsections (d) and (i); and

"(ii) deemed to have arisen as of the date the conservator or receiver was appointed.

"(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described in subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise the right of repudiation of such contract under this section—

"(i) the other party shall be paid under the terms of the contract for the services performed; and

"(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

"(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by any conservator or receiver of services referred to in subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver to repudiate such contract under this section at any time after such performance.

"(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

"(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraph (10) of this subsection and notwithstanding any other provision of this Act (other than subsections (d)(9) and (i)(4)(I) of this section and section 13(e)), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right to cause the termination or liquidation of any qualified financial contract with an insured depository institution which arises upon the appointment of the Corporation as receiver for such institution at any time after such appointment;

"(ii) any right under any security arrangement relating to any contract or agreement described in clause (i); or

"(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

"(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (d)(12) shall apply in the case of any judicial action or proceeding brought against any receiver referred to in subparagraph (A), or the insured depository institution for which such receiver was appointed, by any party to a contract or agreement described in subparagraph (A)(i) with such institution.

"(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

"(i) IN GENERAL.—Notwithstanding paragraph (11), the Corporation, whether acting as such or as conservator or receiver of an insured depository institution, may not avoid any transfer of money or other property in connection with any qualified financial contract with an insured depository institution.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with an insured depository institution if the Corporation determines that the transferee had actual intent to hinder, delay, or defraud such institution, the creditors of such institution, or any conservator or receiver appointed for such institution.

"(D) Certain contracts and agreements defined.—For purposes of this subsection—

"(i) Qualified financial contract.—The term 'qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Corporation determines by regulation to be a qualified financial contract for purposes of this paragraph.

"(ii) Securities contract.—The term 'securities contract'—

"(I) has the meaning given to such term in section 741(7) of title 11, United States Code, except that the term 'security' (as used in such section) shall be deemed to include any mortgage loan, any mortgage-related security (as defined in section 3(a)(41) of the Securities Exchange Act of 1934), and any interest in any mortgage loan or mortgage-related security; and

"(II) does not include any participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(iii) Commodity contract.—The term 'commodity contract' has the meaning given to such term in section 761(4) of title 11, United States Code.

"(iv) Forward contract.—The term 'forward contract' has the meaning given to such term in section 101(24) of title 11, United States Code.

"(v) Repurchase agreement.—The term 'repurchase agreement'—

"(I) has the meaning given to such term in section 101(41) of title 11, the United States Code, except that the items (as described in such section) which may be subject to any such agreement shall be deemed to include mortgage-related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, any mortgage loan, and any interest in any mortgage loan; and

"(II) does not include any participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(vi) Swap agreement.—The term 'swap agreement'—

"(I) means any agreement, including the terms and conditions incorporated by reference in any such agreement, which is a rate swap agreement, basis swap, commodity swap, forward rate agreement, interest rate future, interest rate option purchased, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency future, or currency option purchased or any other similar agreement, and

"(II) includes any combination of such agreements and any option to enter into any such agreement.

"(vii) TREATMENT OF MASTER AGREEMENT AS 1 SWAP AGREEMENT.—Any master agreement for any agreements described in clause (vi)(I) together with all supplements to such master agreement shall be treated as 1 swap agreement.

"(viii) TRANSFER.—The term 'transfer' has the meaning given to such term in section 101(50) of title 11, United States Code.

"(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (12) of this subsection, subsections (d)(9) and (i)(4)(I) of this section, and section 13(e) of this Act), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a depository institution in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

"(ii) any right under any security arrangement relating to such qualified financial contracts; or

"(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

"(A) transfer to 1 depository institution (other than a depository institution in default)— Claims.

"(i) all qualified financial contracts between—

"(I) any person or any affiliate of such person; and

"(II) the depository institution in default;

"(ii) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

"(iii) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

"(iv) all property securing any claim described in clause (ii) or (iii) under any such contract; or

"(B) transfer none of the financial contracts, claims, or property referred to in subparagraph (A) (with respect to such person and any affiliate of such person).

"(10) NOTIFICATION OF TRANSFER.—

"(A) IN GENERAL.—If—

"(i) the conservator or receiver for an insured depository institution in default makes any transfer of the assets and liabilities of such institution; and

"(ii) the transfer includes any qualified financial contract,

the conservator or receiver shall use such conservator's or receiver's best efforts to notify any person who is a party to any such contract of such transfer by 12:00, noon (local time) on the business day following such transfer.

"(B) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

"(11) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any depository institution except where such an interest is taken in contemplation of the institution's insolvency or with the intent to hinder, delay, or defraud the institution or the creditors of such institution.

"(12) AUTHORITY TO ENFORCE CONTRACTS.—

"(A) IN GENERAL.—The conservator or receiver may enforce any contract, other than a director's or officer's liability insurance contract or a depository institution bond, entered into by the depository institution notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of a conservator or receiver.

"(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a directors or officers liability insurance contract or depository institution bond under other applicable law.

"(13) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

"(A) any extension of credit from any Federal home loan bank or Federal Reserve bank to any insured depository institution; or

"(B) any security interest in the assets of the institution securing any such extension of credit.

"(f) PAYMENT OF INSURED DEPOSITS.—

"(1) IN GENERAL.—In case of the liquidation of, or other closing or winding up of the affairs of, any insured depository institution, payment of the insured deposits in such institution shall be made by the Corporation as soon as possible, subject to the provisions of subsection (g), either by cash or by making available to each depositor a transferred deposit in a new insured depository institution in the same community or in another insured depository institution in an amount equal to the insured deposit of such depositor, except that—

"(A) all payments made pursuant to this section on account of a closed Bank Insurance Fund member shall be made only from the Bank Insurance Fund, and

"(B) all payments made pursuant to this section on account of a closed Savings Association Insurance Fund member shall be made only from the Savings Association Insurance Fund.

"(2) Proof of claims.—The Corporation, in its discretion, may require proof of claims to be filed and may approve or reject such claims for insured deposits.

"(3) Resolution of disputes.—

Claims.

"(A) Resolutions in accordance to corporation regulations.—In the case of any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit, the Corporation may resolve such disputed claim in accordance with regulations prescribed by the Corporation establishing procedures for resolving such claims.

"(B) Adjudication of claims.—If the Corporation has not prescribed regulations establishing procedures for resolving disputed claims, the Corporation may require the final determination of a court of competent jurisdiction before paying any such claim.

Courts, U.S.

"(4) Review of corporation's determination.—Final determination made by the Corporation shall be reviewable in accordance with chapter 7 of title 5, United States Code, by the United States Court of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the principal place of business of the depository institution is located.

"(5) Statute of limitations.—Any request for review of a final determination by the Corporation shall be filed with the appropriate circuit court of appeals not later than 60 days after such determination is ordered.

"(g) Subrogation of corporation.—

"(1) In general.—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Corporation, upon the payment to any depositor as provided in subsection (f) in connection with any insured depository institution or insured branch described in such subsection or the assumption of any deposit in such institution or branch by another insured depository institution pursuant to this section or section 13, shall be subrogated to all rights of the depositor against such institution or branch to the extent of such payment or assumption.

Claims.

"(2) Dividends on subrogated amounts.—The subrogation of the Corporation under paragraph (1) with respect to any insured depository institution shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such institution and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain such claim for any uninsured or unassumed portion of the deposit.

"(3) Waiver of certain claims.—With respect to any bank which closes after May 25, 1938, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon such stock in such bank; but any such waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated.

"(4) APPLICABILITY OF STATE LAW.—If the Corporation is appointed pursuant to subsection (c)(3), or determines not to invoke the authority conferred in subsection (c)(4), the rights of depositors and other creditors of any State depository institution shall be determined in accordance with the applicable provisions of State law.

"(h) CONDITIONS APPLICABLE TO LIQUIDATION PROCEEDINGS.—

"(1) CONSIDERATION OF LOCAL ECONOMIC IMPACT REQUIRED.—The Corporation shall fully consider the adverse economic impact on local communities, including businesses and farms, of actions to be taken by it during the administration and liquidation of loans of a depository institution in default.

"(2) ACTIONS TO ALLEVIATE ADVERSE ECONOMIC IMPACT TO BE CONSIDERED.—The actions which the Corporation shall consider include the release of proceeds from the sale of products and services for family living and business expenses and shortening the undue length of the decisionmaking process for the acceptance of offers of settlement contingent upon third party financing.

"(3) GUIDELINES REQUIRED.—The Corporation shall adopt and publish procedures and guidelines to minimize adverse economic effects caused by its actions on individual debtors in the community.

"(i) VALUATION OF CLAIMS IN DEFAULT.—

"(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State and regardless of the method which the Corporation determines to utilize with respect to an insured depository institution in default or in danger of default, including transactions authorized under subsection (n) and section 13(c), this subsection shall govern the rights of the creditors (other than insured depositors) of such institution.

"(2) MAXIMUM LIABILITY.—The maximum liability of the Corporation, acting as receiver or in any other capacity, to any person having a claim against the receiver or the insured depository institution for which such receiver is appointed shall equal the amount such claimant would have received if the Corporation had liquidated the assets and liabilities of such institution without exercising the Corporation's authority under subsection (n) of this section or section 13.

"(3) ADDITIONAL PAYMENTS AUTHORIZED.—

"(A) IN GENERAL.—The Corporation may, in its discretion and in the interests of minimizing its losses, use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants. The Corporation shall not be obligated, as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category or claimants.

"(B) SOURCE OF FUNDS.—If the depository institution in default is a Bank Insurance Fund member, the Corporation may only make such payments out of funds held in the Bank Insurance Fund. If the depository institution in default is a Savings Association Insurance Fund member, the Corporation may only make such payments out of funds held in the Savings Association Insurance Fund.

"(C) Manner of payment.—The Corporation may make the payments or credit the amounts specified in subparagraphs (A) and (B) directly to the claimants or may make such payments or credit such amounts to an open insured depository institution to induce such institution to accept liability for such claims.

"(j) Limitation on court action.—Except as provided in this section, no court may take any action, except at the request of the Board of Directors by regulation or order, to restrain or affect the exercise of powers or functions of the Corporation as a conservator or a receiver.

"(k) Liability of directors and officers.—A director or officer of an insured depository institution may be held personally liable for monetary damages in any civil action by, on behalf of, or at the request or direction of the Corporation, which action is prosecuted wholly or partially for the benefit of the Corporation—

"(1) acting as conservator or receiver of such institution,

"(2) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver or conservator, or

"(3) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by an insured depository institution or its affiliate in connection with assistance provided under section 13,

for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law. Nothing in this paragraph shall impair or affect any right of the Corporation under other applicable law.

"(l) Damages.—In any proceeding related to any claim against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, recoverable damages determined to result from the improvident or otherwise improper use or investment of any insured depository institution's assets shall include principal losses and appropriate interest.".

SEC. 213. NEW BANKS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (l) (as added by section 212) the following new subsection:

"(m) New Banks.—

"(1) Organization authorized.—As soon as possible after the default of an insured bank, the Corporation, if it finds that it is advisable and in the interest of the depositors of the insured bank in default or the public shall organize a new national bank in the same community as the bank in default to assume the insured deposits of such bank in default and otherwise to perform temporarily the functions hereinafter provided for.

"(2) Articles of association.—The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation.

"(3) Capital stock.—No capital stock need be paid in by the Corporation.

"(4) Executive officer.—The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the Board of Directors of the Corporation who shall be subject to its directions.

"(5) Subject to laws relating to national banks.—In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations.

"(6) New deposits.—The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed $100,000 from any depositor.

"(7) Insured status.—The new bank, without application to or approval by the Corporation, shall be an insured depository institution and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank.

"(8) Investments.—Funds of the new bank shall be kept on hand in cash, invested in obligations of the United States or obligations guaranteed as to principal and interest by the United States, or deposited with the Corporation, any Federal Reserve bank, or, to the extent of the insurance coverage on any such deposit, an insured depository institution.

"(9) Conduct of business.—The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact business only as authorized by this Act and as may be incidental to its organization.

Taxes.

"(10) Exempt status.—Notwithstanding any other provision of Federal or State law, the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

"(11) Transfer of deposits.—(A) Upon the organization of a new bank, the Corporation shall promptly make available to it an amount equal to the estimated insured deposits of such bank in default plus the estimated amount of the expenses of operating the new bank, and shall determine as soon as possible the amount due each depositor for the depositor's insured deposit in the bank in default, and the total expenses of operation of the new bank.

"(B) Upon such determination, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined.

"(12) Earnings.—Earnings of the new bank shall be paid over or credited to the Corporation in such adjustment.

"(13) Losses.—If any new bank, during the period it continues its status as such, sustains any losses with respect to which it is not effectively protected except by reason of being an insured bank, the Corporation shall furnish to it additional funds in the amount of such losses.

"(14) PAYMENT OF INSURED DEPOSITS.—(A) The new bank shall assume as transferred deposits the payment of the insured deposits of such bank in default to each of its depositors.

"(B) Of the amounts so made available, the Corporation shall transfer to the new bank, in cash, such sums as may be necessary to enable it to meet its expenses of operation and immediate cash demands on such transferred deposits, and the remainder of such amounts shall be subject to withdrawal by the new bank on demand.

"(15) ISSUANCE OF STOCK.—(A) Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the Board of Directors shall deem advisable in an amount sufficient, in the opinion of the Board of Directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by section 5138 of the Revised Statutes for the organization of a national bank in the place where such new bank is located.

"(B) The stockholders of the insured bank in default shall be given the first opportunity to purchase any shares of common stock so offered.

Securities.

"(16) ISSUANCE OF CERTIFICATE.—Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, the Comptroller of the Currency shall issue to the bank a certificate of authority to commence business, and thereupon the bank shall cease to have the status of a new bank, shall be managed by directors elected by its own shareholders, may exercise all the powers granted by law, and shall be subject to all provisions of law relating to national banks. Such bank shall thereafter be an insured national bank, without certification to or approval by the Corporation.

Securities.

"(17) TRANSFER TO OTHER INSTITUTION.—If the capital stock of the new bank is not offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid for, the Board of Directors may offer to transfer its business to any insured depository institution in the same community which will take over its assets, assume its liabilities, and pay to the Corporation for such business such amount as the Board of Directors may deem adequate; or the Board of Directors in its discretion may change the location of the new bank to the office of the Corporation or to some other place or may at any time wind up its affairs as herein provided.

Securities.

"(18) WINDING UP.—Unless the capital stock of the new bank is sold or its assets are taken over and its liabilities are assumed by an insured depository institution as above provided within 2 years after the date of its organization, the Corporation shall wind up the affairs of such bank, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of the new bank. Thereafter the Corporation shall be liable for the obligations of such bank and shall be the owner of its assets.

"(19) APPLICABILITY OF CERTAIN LAWS.—The provisions of sections 5220 and 5221 of the Revised Statutes shall not apply to a new bank under this subsection.".

SEC. 214. BRIDGE BANKS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (m) (as added by section 213) the following new subsection:

"(n) BRIDGE BANKS.—

"(1) ORGANIZATION.—

"(A) PURPOSE.—When 1 or more insured banks are in default, or when the Corporation anticipates that 1 or more insured banks may become in default, the Corporation may, in its discretion, organize, and the Office of the Comptroller of the Currency shall charter, 1 or more national banks with respect thereto with the powers and attributes of national banking associations, subject to the provisions of this subsection, to be referred to as bridge banks.

"(B) AUTHORITIES.—Upon the granting of a charter to a bridge bank, the bridge bank may—

"(i) assume such deposits of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate, except that if any insured deposits of a bank are assumed, all insured deposits of that bank shall be assumed by the bridge bank or another insured depository institution;

"(ii) assume such other liabilities (including liabilities associated with any trust business) of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate;

"(iii) purchase such assets (including assets associated with any trust business) of such insured bank or banks that is or are in default or in danger of default as the Corporation may, in its discretion, determine to be appropriate; and

"(iv) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this Act.

"(C) ARTICLES OF ASSOCIATION.—The articles of association and organization certificate of a bridge bank as approved by the Corporation shall be executed by 3 representatives designated by the Corporation.

"(D) INTERIM DIRECTORS.—A bridge bank shall have an interim board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation.

"(E) NATIONAL BANK.—A bridge bank shall be organized as a national bank.

"(2) CHARTERING.—

"(A) CONDITIONS.—A national bank may be chartered by the Comptroller of the Currency as a bridge bank only if the Board of Directors determines that—

"(i) the amount which is reasonably necessary to operate such bridge bank will not exceed the amount which is reasonably necessary to save the cost of liquidating, including paying the insured accounts of, 1 or more insured banks in default or in danger of default with respect to which the bridge bank is chartered;

"(ii) the continued operation of such insured bank or banks in default or in danger of default with respect to which the bridge bank is chartered is essential to provide adequate banking services in the community where each such bank in default or in danger of default is located; or

"(iii) the continued operation of such insured bank or banks in default or in danger of default with respect to which the bridge bank is chartered is in the best interest of the depositors of such bank or banks in default or in danger of default or the public.

"(B) INSURED NATIONAL BANK.—A bridge bank shall be an insured bank from the time it is chartered as a national bank.

"(C) BRIDGE BANK TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A bridge bank shall be treated as an insured bank in default at such times and for such purposes as the Corporation may, in its discretion, determine.

"(D) MANAGEMENT.—A bridge bank, upon the granting of its charter, shall be under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Corporation.

"(E) BYLAWS.—The board of directors of a bridge bank shall adopt such bylaws as may be approved by the Corporation.

"(3) TRANSFER OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—

"(i) TRANSFER UPON GRANT OF CHARTER.—Upon the granting of a charter to a bridge bank pursuant to this subsection, the Corporation, as receiver, or any other receiver appointed with respect to any insured bank in default with respect to which the bridge bank is chartered may transfer any assets and liabilities of such bank in default to the bridge bank in accordance with paragraph (1).

"(ii) SUBSEQUENT TRANSFERS.—At any time after a charter is granted to a bridge bank, the Corporation, as receiver, or any other receiver appointed with respect to an insured bank in default may transfer any assets and liabilities of such insured bank in default as the Corporation may, in its discretion, determine to be appropriate in accordance with paragraph (1).

"(iii) TREATMENT OF TRUST BUSINESS.—For purposes of this paragraph, the trust business, including fiduciary appointments, of any insured bank in default is included among its assets and liabilities.

"(iv) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities, including those associated with any trust business, of an insured bank in default transferred to a bridge bank shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

"(B) INTENT OF CONGRESS REGARDING CONTINUING OPERATIONS.—It is the intent of the Congress that, in order to prevent unnecessary hardship or losses to the customers of any insured bank in default with respect to which a bridge bank is chartered, especially creditworthy farmers, small businesses, and households, the Corporation should—

"(i) continue to honor commitments made by the bank in default to creditworthy customers, and

"(ii) not interrupt or terminate adequately secured loans which are transferred under subparagraph (A) and are being repaid by the debtor in accordance with the terms of the loan instrument.

"(4) POWERS OF BRIDGE BANKS.—Each bridge bank chartered under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, a national bank, except that—

"(A) the Corporation may—

"(i) remove the interim directors and directors of a bridge bank;

"(ii) fix the compensation of members of the interim board of directors and the board of directors and senior management, as determined by the Corporation in its discretion, of a bridge bank; and

"(iii) waive any requirement established under section 5145, 5146, 5147, 5148, or 5149 of the Revised Statutes (relating to directors of national banks) or section 31 of the Banking Act of 1933 which would otherwise be applicable with respect to directors of a bridge bank by operation of paragraph (2)(B);

"(B) the Corporation may indemnify the representatives for purposes of paragraph (1)(B) and the interim directors, directors, officers, employees, and agents of a bridge bank on such terms as the Corporation determines to be appropriate;

"(C) no requirement under section 5138 of the Revised Statutes or any other provision of law relating to the capital of a national bank shall apply with respect to a bridge bank;

"(D) the Comptroller of the Currency may establish a limitation on the extent to which any person may become indebted to a bridge bank without regard to the amount of the bridge bank's capital or surplus;

"(E)(i) the board of directors of a bridge bank shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Corporation;

"(ii) the board of directors of a bridge bank may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Corporation;

"(F) a bridge bank shall not be required to purchase stock of any Federal Reserve bank;

"(G) the Comptroller of the Currency shall waive any requirement for a fidelity bond with respect to a bridge bank at the request of the Corporation;

"(H) any judicial action to which a bridge bank becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a bank in default shall be stayed from further proceedings for a period of up to 45 days at the request of the bridge bank;

"(I) no agreement which tends to diminish or defeat the right, title or interest of a bridge bank in any asset of an insured bank in default acquired by it shall be valid against the bridge bank unless such agreement—

"(i) is in writing,

"(ii) was executed by such insured bank in default and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by such insured bank in default,

"(iii) was approved by the board of directors of such insured bank in default or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

"(iv) has been, continuously from the time of its execution, an official record of such insured bank in default;

"(J) notwithstanding section 13(e)(2), any agreement relating to an extension of credit between a Federal home loan bank or Federal Reserve bank and any insured depository institution which was executed before the extension of credit by such bank to such depository institution shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (I); and

"(K) except with the prior approval of the Corporation, a bridge bank may not, in any transaction or series of transactions, issue capital stock or be a party to any merger, consolidation, disposition of assets or liabilities, sale or exchange of capital stock, or similar transaction, or change its charter.

"(5) CAPITAL.—

"(A) NO CAPITAL REQUIRED.—The Corporation shall not be required to— Securities.

"(i) issue any capital stock on behalf of a bridge bank chartered under this subsection; or

"(ii) purchase any capital stock of a bridge bank, except that notwithstanding any other provision of Federal or State law, the Corporation may purchase and retain capital stock of a bridge bank in such amounts and on such terms as the Corporation, in its discretion, determines to be appropriate.

"(B) OPERATING FUNDS IN LIEU OF CAPITAL.—Upon the organization of a bridge bank, and thereafter, as the Board of Directors may, in its discretion, determine to be necessary or advisable, the Corporation may make available to the bridge bank, upon such terms and conditions and in such form and amounts as the Corporation may in its discretion determine, funds for the operation of the bridge bank in lieu of capital.

"(C) AUTHORITY TO ISSUE CAPITAL STOCK.—Whenever the Board of Directors determines it is advisable to do so, the

Corporation shall cause capital stock of a bridge bank to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.

"(6) NO FEDERAL STATUS.—

"(A) AGENCY STATUS.—A bridge bank is not an agency, establishment, or instrumentality of the United States.

"(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a bridge bank are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation or of any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a bridge bank shall not—

"(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law, or

Wages.

"(ii) receive any salary or benefits for service in any such capacity with respect to a bridge bank in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.

"(7) ASSISTANCE AUTHORIZED.—The Corporation may, in its discretion, provide assistance under section 13(c) to facilitate any transaction described in clause (i), (ii), or (iii) of paragraph (10)(A) with respect to any bridge bank in the same manner and to the same extent as such assistance may be provided under such section with respect to an insured bank in default, or to facilitate a bridge bank's acquisition of any assets or the assumption of any liabilities of an insured bank in default.

"(8) ACQUISITION.—

"(A) IN GENERAL.—The responsible agency shall notify the Attorney General of any transaction involving the merger or sale of a bridge bank requiring approval under section 18(c) and if a report on competitive factors is requested within 10 days, such transaction may not be consummated before the 5th calendar day after the date of approval by the responsible agency with respect thereto. If the responsible agency has found that it must act immediately to prevent the probable failure of 1 of the banks involved, the preceding sentence does not apply and the transaction may be consummated immediately upon approval by the agency.

Securities.

"(B) BY OUT-OF-STATE HOLDING COMPANY.—Any depository institution, including an out-of-State depository institution, or any out-of-State depository institution holding company may acquire and retain the capital stock or assets of, or otherwise acquire and retain a bridge bank if the bridge bank at any time had assets aggregating $500,000,000 or more, as determined by the Corporation on the basis of the bridge bank's reports of condition or on the basis of the last available reports of condition of any insured bank in default, which institution has been acquired, or whose assets have been acquired, by the bridge bank. The acquiring entity may acquire the bridge bank only in the same manner and to the same extent as such entity may acquire an insured bank in default under section 13(f)(2).

"(9) DURATION OF BRIDGE BANK.—Subject to paragraphs (11) and (13), the status of a bridge bank as such shall terminate at the end of the 2-year period following the date it was granted a charter. The Board of Directors may, in its discretion, extend the status of the bridge bank as such for 3 additional 1-year periods.

"(10) TERMINATION OF BRIDGE BANK STATUS.—The status of any bridge bank as such shall terminate upon the earliest of—

"(A) the merger or consolidation of the bridge bank with a depository institution that is not a bridge bank;

"(B) at the election of the Corporation, the sale of a majority of the capital stock of the bridge bank to an entity other than the Corporation and other than another bridge bank;

"(C) the sale of 80 percent, or more, of the capital stock of the bridge bank to an entity other than the Corporation and other than another bridge bank;

"(D) at the election of the Corporation, either the assumption of all or substantially all of the deposits and other liabilities of the bridge bank by a depository institution holding company or a depository institution that is not a bridge bank, or the acquisition of all or substantially all of the assets of the bridge bank by a depository institution holding company, a depository institution that is not a bridge bank, or other entity as permitted under applicable law; and

"(E) the expiration of the period provided in paragraph (9), or the earlier dissolution of the bridge bank as provided in paragraph (12).

"(11) EFFECT OF TERMINATION EVENTS.—

"(A) MERGER OR CONSOLIDATION.—A bridge bank that participates in a merger or consolidation as provided in paragraph (10)(A) shall be for all purposes a national bank with all the rights, powers, and privileges thereof, and such merger or consolidation shall be conducted in accordance with, and shall have the effect provided in, the provisions of applicable law.

"(B) CHARTER CONVERSION.—Following the sale of a majority of the capital stock of the bridge bank as provided in paragraph (10)(B), the Corporation may amend the charter of the bridge bank to reflect the termination of the status of the bridge bank as such, whereupon the bank shall remain a national bank, with all of the rights, powers, and privileges thereof, subject to all laws and regulations applicable thereto.

"(C) SALE OF STOCK.—Following the sale of 80 percent or more of the capital stock of a bridge bank as provided in paragraph (10)(C), the bank shall remain a national bank, with all of the rights, powers, and privileges thereof, subject to all laws and regulations applicable thereto.

"(D) ASSUMPTION OF LIABILITIES AND SALE OF ASSETS.—Following the assumption of all or substantially all of the liabilities of the bridge bank, or the sale of all or substantially all of the assets of the bridge bank, as provided in paragraph (10)(D), at the election of the Corporation the bridge bank may retain its status as such for the period provided in paragraph (8).

"(E) EFFECT ON HOLDING COMPANIES.—A depository institution holding company acquiring a bridge bank under section 13(f), paragraph (8)(B) (or any predecessor provision), or both provisions, shall not be impaired or adversely affected by the termination of the status of a bridge bank as a result of subparagraph (A), (B), (C), or (D) of paragraph (10), and shall be entitled to the rights and privileges provided in section 13(f).

"(F) AMENDMENTS TO CHARTER.—Following the consummation of a transaction described in subparagraph (A), (B), (C), or (D) of paragraph (10), the charter of the resulting institution shall be amended to reflect the termination of bridge bank status, if appropriate.

"(12) DISSOLUTION OF BRIDGE BANK.—

"(A) IN GENERAL.—Notwithstanding any other provision of State or Federal law, if the bridge bank's status as such has not previously been terminated by the occurrence of an event specified in subparagraphs (A), (B), (C), or (D) of paragraph (10)—

"(i) the Board of Directors may, in its discretion, dissolve a bridge bank in accordance with this paragraph at any time; and

"(ii) the Board of Directors shall promptly commence dissolution proceedings in accordance with this paragraph upon the expiration of the 2-year period following the date the bridge bank was chartered, or any extension thereof, as provided in paragraph (9).

"(B) PROCEDURES.—The Comptroller of the Currency shall appoint the Corporation receiver for a bridge bank upon certification by the Board of Directors to the Comptroller of the Currency of its determination to dissolve the bridge bank. The Corporation as such receiver shall wind up the affairs of the bridge bank in conformity with the provisions of law relating to the liquidation of closed national banks. With respect to any such bridge bank, the Corporation as such receiver shall have all the rights, powers, and privileges and shall perform the duties related to the exercise of such rights, powers, or privileges granted by law to a receiver of any insured depository institution and notwithstanding any other provision of law in the exercise of such rights, powers, and privileges the Corporation shall not be subject to the direction or supervision of any State agency or other Federal agency.

"(13) MULTIPLE BRIDGE BANKS.—Subject to paragraph (1)(B)(i), the Corporation may, in the Corporation's discretion, organize 2 or more bridge banks under this subsection to assume any deposits of, assume any other liabilities of, and purchase any assets of a single bank in default.".

SEC. 215. FSLIC RESOLUTION FUND.

The Federal Deposit Insurance Act is amended by inserting after section 11 the following:

"SEC. 11A. FSLIC RESOLUTION FUND. 12 USC 1821a.

"(a) ESTABLISHED.—

"(1) IN GENERAL.—There is established a separate fund to be designated as the FSLIC Resolution Fund which shall be managed by the Corporation and separately maintained and not commingled.

"(2) TRANSFER OF FSLIC ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—Except as provided in section 21A of the Federal Home Loan Bank Act, all assets and liabilities of the Federal Savings and Loan Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be transferred to the FSLIC Resolution Fund.

"(B) ADDITIONAL CLAIMS ON ASSETS.—The FSLIC Resolution Fund shall pay to the Savings Association Insurance Fund such amounts as are needed for administrative and supervisory expenses from the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 through September 30, 1991.

"(3) SEPARATE HOLDING.—Assets and liabilities transferred to the FSLIC Resolution Fund shall be the assets and liabilities of the Fund and not of the Corporation and shall not be consolidated with the assets and liabilities of the Bank Insurance Fund, the Savings Association Insurance Fund, or the Corporation for accounting, reporting, or any other purpose.

"(b) SOURCE OF FUNDS.—The FSLIC Resolution Fund shall be funded from the following sources to the extent funds are needed in the listed priority:

"(1) Income earned on assets of the FSLIC Resolution Fund.

"(2) Liquidating dividends and payments made on claims received by the FSLIC Resolution Fund from receiverships to the extent such funds are not required by the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act or the Financing Corporation pursuant to section 21 of such Act.

"(3) Amounts borrowed by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act.

"(4) During the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on December 31, 1991, amounts assessed against Savings Association Insurance Fund members by the Corporation pursuant to section 7 which are not required by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act or by the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act.

"(c) TREASURY BACKUP.—

"(1) IN GENERAL.—If the funds described in subsections (a) and (b) are insufficient to satisfy the liabilities of the FSLIC Resolution Fund, the Secretary of the Treasury shall pay to the Fund such amounts as may be necessary, as determined by the Corporation and the Secretary, for FSLIC Resolution Fund purposes.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury, without fiscal year limitation, such sums as may be necessary to carry out this section.

"(d) LEGAL PROCEEDINGS.—Any judgment resulting from a proceeding to which the Federal Savings and Loan Insurance Corporation was a party prior to its dissolution or which is initiated against the Corporation with respect to the Federal Savings and Loan Insurance Corporation or with respect to the FSLIC Resolution Fund shall be limited to the assets of the FSLIC Resolution Fund.

"(e) TRANSFER OF NET PROCEEDS FROM SALE OF RTC ASSETS.—The FSLIC Resolution Fund shall transfer to the Resolution Funding Corporation any net proceeds from the sale of assets acquired from the Resolution Trust Corporation upon the termination of such Corporation pursuant to section 21A of the Federal Home Loan Bank Act.

"(f) DISSOLUTION.—The FSLIC Resolution Fund shall be dissolved upon satisfaction of all debts and liabilities and sale of all assets. Upon dissolution any remaining funds shall be paid into the Treasury. Any administrative facilities and supplies, including offices and office supplies, shall be transferred to the Corporation for use by and to be held as assets of the Savings Association Insurance Fund.".

SEC. 216. AMENDMENTS TO SECTION 12.

Section 12 of the Federal Deposit Insurance Act (12 U.S.C. 1822) is amended—

(1) by striking out "closed bank" each place it appears and inserting in lieu thereof "depository institution in default";

(2) by striking out subsection (a) and inserting the following:

"(a) BOND NOT REQUIRED; AGENTS; FEE.—The Corporation as receiver of an insured depository institution or branch of a foreign bank shall not be required to furnish bond and may appoint an agent or agents to assist it in its duties as such receiver. All fees, compensation, and expenses of liquidation and administration shall be fixed by the Corporation, and may be paid by it out of funds coming into its possession as such receiver."; and

(3) in subsection (d)—

(A) by striking out "as a stockholder of the depository institution in default, or of any liability of such depositor"; and

(B) by striking out "such bank" and inserting in lieu thereof "such depository institution".

SEC. 217. AMENDMENTS TO SECTION 13.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by striking out subsection (a) and inserting the following:

"(a) INVESTMENT OF CORPORATION'S FUNDS.—

"(1) AUTHORITY.—Funds held in the Bank Insurance Fund, the Savings Association Insurance Fund, or the FSLIC Resolution Fund, that are not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"(2) LIMITATION.—The Corporation shall not sell or purchase any obligations described in paragraph (1) for its own account, at any one time aggregating in excess of $100,000, without the approval of the Secretary of the Treasury. The Secretary may approve a transaction or class of transactions subject to the provisions of this paragraph under such conditions as the Secretary may determine.";

(2) in subsection (b)—

(A) by striking out "banking and checking" and "banking or checking" each place such terms appear and inserting in lieu thereof "depository";

(B) by striking out "bank" (except "Federal Reserve bank") each place such term appears and inserting in lieu thereof "depository institution";

(3) in subsection (c)—

(A) by striking out "closing" or "closed" each place such terms appear and inserting in lieu thereof "default" or "in default";

(B) by striking out "an" before "closed insured bank" each place such terms appear and inserting in lieu thereof "a";

(C) by striking out "in default insured depository institution" each place such term appears and inserting in lieu thereof "insured depository institution in default";

(D) in paragraph (2)(A)—

(i) by striking out "such insured institution" and "an insured depository institution" and inserting in lieu thereof "such other insured depository institution" and "another insured depository institution", respectively;

(ii) by inserting "any or all of the" after "the sale of"; and

(iii) by striking out "and the assumption" and inserting in lieu thereof "or the assumption of any or all";

(E) by adding at the end of paragraph (2) the following:

"(C) Any action to which the Corporation is or becomes a party by acquiring any asset or exercising any other authority set forth in this section shall be stayed for a period of 60 days at the request of the Corporation.";

(F) in paragraph (3), by striking out "section 13(f) of this Act" and inserting in lieu thereof "subsection (f) or (k) of this section";

(G) in paragraph (4)—

(i) by striking out "banking" and inserting in lieu thereof "depository"; and

(ii) by inserting at the end of subparagraph (A) the following: "In calculating the cost of assistance, the Corporation shall include (i) the immediate and long-term obligations of the Corporation with respect to such assistance, including contingent liabilities, and (ii) the Federal tax revenues foregone by the Government, to the extent reasonably ascertainable."; and

(H) by striking out paragraph (8);

(I) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(J) by inserting after paragraph (5) the following:

"(6) The transfer of any assets or liabilities associated with any trust business of an insured depository institution in default under subparagraph (2)(A) shall be effective without any State or Federal approval, assignment, or consent with respect thereto."; and

(K) by adding at the end the following:

"(9) Payments made under this subsection shall be made—

"(A) from the Bank Insurance Fund in the case of payments to or on behalf of a member of such Fund; or

"(B) from the Savings Association Insurance Fund or from funds made available by the Resolution Trust Corporation in the case of payments to or on behalf of any Savings Association Insurance Fund member.";

(4) by striking out subsections (d) and (e) and inserting the following:

"(d) SALE OF ASSETS TO CORPORATION.—

Loans.

"(1) IN GENERAL.-Any conservator, receiver, or liquidator appointed for any insured depository institution in default, including the Corporation acting in such capacity, shall be entitled to offer the assets of such depository institutions for sale to the Corporation or as security for loans from the Corporation.

"(2) PROCEEDS.—The proceeds of every sale or loan of assets to the Corporation shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such depository institutions.

"(3) RIGHTS AND POWERS OF CORPORATION.—

"(A) IN GENERAL.—With respect to any asset acquired or liability assumed pursuant to this section, the Corporation shall have all of the rights, powers, privileges, and authorities of the Corporation as receiver under sections 11 and 15(b).

"(B) RULE OF CONSTRUCTION.—Such rights, powers, privileges, and authorities shall be in addition to and not in derogation of any rights, powers, privileges, and authorities otherwise applicable to the Corporation.

"(C) FIDUCIARY RESPONSIBILITY.—In exercising any right, power, privilege, or authority described in subparagraph (A), the Corporation shall continue to be subject to the fiduciary duties and obligations of the Corporation as receiver to claimants against the insured depository institution in receivership.

"(4) LOANS.—The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured depository institution which is now or may hereafter be in default.

"(e) AGREEMENTS AGAINST INTERESTS OF CORPORATION.—No agreement which tends to diminish or defeat the interest of the Corporation in any asset acquired by it under this section or section 11, either as security for a loan or by purchase or as receiver of any insured depository institution, shall be valid against the Corporation unless such agreement—

"(1) is in writing,

"(2) was executed by the depository institution and any person claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the depository institution,

"(3) was approved by the board of directors of the depository institution or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

"(4) has been, continuously, from the time of its execution, an official record of the depository institution.";

(5) in subsection (f)—

(A) by striking out "closed" and "closing" each place such terms appear (except in "closed bank") and inserting in lieu thereof "in default" or "default", respectively;

(B) by striking out "closed bank" and inserting in lieu thereof "bank in default";

(C) in paragraph (1), by inserting "savings association" after "out-of-state bank";

(D) in paragraph (2)(B)(iii), by striking out "a unanimous vote" and inserting in lieu thereof "a vote of 75 percent of";

(E) by striking out "the constitution of any State,";

(F) in paragraph (6)(A), by inserting "the offeror which made the initial lowest acceptable offer and" after "the Corporation shall permit";

(G) by adding at the end of paragraph (7) the following:

"(C) if in the opinion of the Corporation the acquisition threatens the safety and soundness of the acquirer or does not result in the future viability of the resulting depository institution.";

(H) in paragraph (8), by striking out subparagraphs (A), (B), and (D) and redesignating paragraphs (C), (E), (F), and (G) as subparagraphs (A), (B), (C), and (D), respectively;

(I) in paragraph (9)—

(i) in the paragraph heading, by striking out "NONBANK" and inserting in lieu thereof "CERTAIN";

(ii) in paragraph (9)(A), by inserting ", other than a subsidiary that is an insured depository institution," after "subsidiary" and by striking out "which is not an insured bank"; and

(iii) in paragraph (9)(B), by inserting "or an affiliate of an insured depository institution" after "intermediate holding company"; and

(J) by adding at the end thereof the following new paragraph:

"(12) ACQUISITION OF MINORITY BANK BY MINORITY BANK HOLDING COMPANY WITHOUT REGARD TO ASSET SIZE.—

"(A) IN GENERAL.—For the purpose of ensuring continued minority control of a minority-controlled bank, paragraphs (2) and (3) shall apply with respect to the acquisition of a minority-controlled bank by an out-of-State minority-controlled depository institution or depository institution holding company without regard to the fact that the total assets of such minority-controlled bank is less than $500,000,000.

"(B) DEFINITIONS.—For purposes of this paragraph:

"(i) MINORITY BANK.—The term 'minority bank' means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

"(I) more than 50 percent of the ownership or control of which is held by one or more minority individuals; and

"(II) more than 50 percent of the net profit or loss of which accrues to minority individuals.

"(ii) MINORITY.—The term 'minority' means any Black American, Native American, Hispanic American, or Asian American.";

(6) in subsection (h), by striking out "a closed insured depository institution", "closing", and "insurance fund" and inserting in lieu thereof "an insured depository institution in default", "default", and "Bank Insurance Fund", respectively;

(7) in subsection (i)—

(A) by inserting "depository" before "institution" each place such term appears;

(B) in paragraph (1)(C)—

(i) by striking out "corporation" and inserting in lieu thereof "Corporation";

(ii) by striking out "chartered bank" and inserting in lieu thereof "chartered depository institution";

(iii) by inserting ", a savings association," after "State member bank"; and

(iv) by inserting "or the Director of the Office of Thrift Supervision" after "Federal Reserve System";

(C) in paragraph (2), by striking out "or insured or guaranteed under State law"; and

(D) by striking out paragraphs (10) and (12); and

(8) by adding at the end thereof the following:

"(k) EMERGENCY ACQUISITIONS.—

"(1) IN GENERAL.—

"(A) ACQUISITIONS AUTHORIZED.—

"(i) TRANSACTIONS DESCRIBED.—Notwithstanding any provision of State law, upon determining that severe financial conditions threaten the stability of a significant number of savings associations, or of savings associations possessing significant financial resources, the Corporation, in its discretion and if it determines such authorization would lessen the risk to the Corporation, may authorize—

"(I) a savings association that is eligible for assistance pursuant to subsection (c) to merge or consolidate with, or to transfer its assets and liabilities to, any other savings association or any insured bank,

"(II) any other savings association to acquire control of such savings association, or

"(III) any company to acquire control of such savings association or to acquire the assets or assume the liabilities thereof.

The Corporation may not authorize any transaction under this subsection unless the Corporation determines that the authorization will not present a substantial risk to the safety or soundness of the savings association to be acquired or any acquiring entity.

"(ii) TERMS OF TRANSACTIONS.—Mergers, consolidations, transfers, and acquisitions under this subsection shall be on such terms as the Corporation shall provide.

"(iii) APPROVAL BY APPROPRIATE AGENCY.—Where otherwise required by law, transactions under this subsection must be approved by the appropriate Federal banking agency of every party thereto.

"(iv) ACQUISITIONS BY SAVINGS ASSOCIATIONS.—Any Federal savings association that acquires another savings association pursuant to clause (i) may, with the concurrence of the Director of the Office of Thrift

Supervision, hold that savings association as a subsidiary notwithstanding the percentage limitations of section 5(c)(4)(B) of the Home Owners' Loan Act.

"(v) DUAL SERVICE.—Dual service by a management official that would otherwise be prohibited under the Depository Institution Management Interlocks Act may, with the approval of the Corporation, continue for up to 10 years.

"(vi) CONTINUED APPLICABILITY OF CERTAIN STATE RESTRICTIONS.—Nothing in this subsection overrides or supersedes State laws restricting or limiting the activities of a savings association on behalf of another entity.

"(B) CONSULTATION WITH STATE OFFICIAL.—

"(i) CONSULTATION REQUIRED.—Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State official having jurisdiction of the acquired institution.

"(ii) PERIOD FOR STATE RESPONSE.—The official shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

"(iii) APPROVAL OVER OBJECTION OF STATE OFFICIAL.—If the official objects during such period, the Corporation may use the authority of this paragraph only by a vote of 75 percent or more of the voting members of the Board of Directors. The Corporation shall provide to the official, as soon as practicable, a written certification of its determination.

"(2) SOLICITATION OF OFFERS.—

"(A) IN GENERAL.—In considering authorizations under this subsection, the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the savings association.

"(B) MINORITY-CONTROLLED INSTITUTIONS.—In the case of a minority-controlled depository institution, the Corporation shall seek an offer from other minority-controlled depository institutions before seeking an offer from other persons or entities.

"(3) DETERMINATION OF COSTS.—In determining the cost of offers under this subsection, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers.

"(4) BRANCHING PROVISIONS.—

"(A) IN GENERAL.—If a merger, consolidation, transfer, or acquisition under this subsection involves a savings association eligible for assistance and a bank or bank holding company, a savings association may retain and operate any existing branch or branches or any other existing facilities. If the savings association continues to exist as a separate entity, it may establish and operate new branches to the same extent as any savings association that is not affiliated with a bank holding company and the home office of which is located in the same State.

"(B) RESTRICTIONS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A), if—

"(I) a savings association described in such subparagraph does not have its home office in the State of the bank holding company bank subsidiary, and

"(II) such association does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986, or does not meet the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify,

such savings association shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the Savings Association Insurance Fund member is located.

"(ii) TRANSITION PERIOD.—The Corporation, for good cause shown, may allow a savings association up to 2 years to comply with the requirements of clause (i).

"(5) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) ASSISTANCE PROPOSALS.—The Corporation shall consider proposals by Savings Association Insurance Fund members for assistance pursuant to subsection (c) before grounds exist for appointment of a conservator or receiver for such member under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) that grounds for appointment of a conservator or receiver exist or likely will exist in the future unless the member's tangible capital is increased;

"(II) that it is unlikely that the member can achieve positive tangible capital without assistance; and

"(III) that providing assistance pursuant to the member's proposal would be likely to lessen the risk to the Corporation.

"(ii) OTHER CRITERIA.—The member meets the following criteria:

"(I) Before enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the member was solvent under applicable regulatory accounting principles but had negative tangible capital.

"(II) The member's negative tangible capital position is substantially attributable to its participation in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons.

"(III) The member is a qualified thrift lender (as defined in section 10(m) of the Home Owners' Loan Act) or would be a qualified thrift lender if commercial real estate owned and nonperforming commercial loans acquired in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons were excluded from the member's total assets.

"(IV) The appropriate Federal banking agency has determined that the member's management is competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(V) The member's management did not engage in insider dealing or speculative practices or other activities that jeopardized the member's safety and soundness or contributed to its impaired capital position.

"(VI) The member's offices are located in an economically depressed region.

"(B) CORPORATION CONSIDERATION OF ASSISTANCE PROPOSAL.—If a member meets the requirements of clauses (i) and (ii) of subparagraph (A), the Corporation shall consider providing direct financial assistance.

"(C) ECONOMICALLY DEPRESSED REGION DEFINED.—For purposes of this paragraph, the term 'economically depressed region' means any geographical region which the Corporation determines by regulation to be a region within which real estate values have suffered serious decline due to severe economic conditions, such as a decline in energy or agricultural values or prices.".

SEC. 218. FDIC BORROWING AUTHORITY.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended—

(1) by striking out "$3,000,000,000 outstanding at any one time" and inserting in lieu thereof "$5,000,000,000 outstanding at any one time, subject to the approval of the Secretary of the Treasury"; and

(2) by adding at the end the following: "The Corporation may employ such funds for purposes of the Bank Insurance Fund or the Savings Association Insurance Fund and the borrowing shall become a liability of each such fund to the extent funds are employed therefor. There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out this section."; and

(3) by striking out "the current average rate on outstanding marketable and nonmarketable obligations of the United States as of the last day of the month preceding the making of such loan" and inserting in lieu thereof the following: "an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities".

SEC. 219. EXEMPTION FROM TAXATION; LIMITATION ON BORROWING.

Section 15 of the Federal Deposit Insurance Act (12 U.S.C. 1825) is amended—

(1) by inserting "(a) GENERAL RULE.—" before "All"; and

(2) by adding at the end the following new subsections:

"(b) OTHER EXEMPTIONS.—When acting as a receiver, the following provisions shall apply with respect to the Corporation:

"(1) The Corporation including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of such property's value, such value, and the tax thereon, shall be determined as of the period for which such tax is imposed.

"(2) No property of the Corporation shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any involuntary lien attach to the property of the Corporation.

Taxes.

"(3) The Corporation shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due.

This subsection shall not apply with respect to any tax imposed (or other amount arising) under the Internal Revenue Code of 1986.

"(c) LIMITATION ON BORROWING.—

"(1) COST ESTIMATE FOR OUTSTANDING OBLIGATIONS LIABILITIES.—As soon as practicable after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall estimate the aggregate cost to the Corporation for all outstanding obligations and guarantees of the Corporation which were issued, and all outstanding liabilities which were incurred, by the Corporation before such date.

"(2) ESTIMATE OF NOTES AND OTHER OBLIGATIONS REQUIRED.—Before issuing an obligation or making a guarantee, the Corporation shall estimate the cost of such obligations or guarantees.

"(3) INCLUSION OF ESTIMATES IN FINANCIAL STATEMENTS.—The Corporation shall—

"(A) reflect in its financial statements the estimates made by the Corporation under paragraphs (1) and (2) of the aggregate amount of the costs to the Corporation for outstanding obligations and other liabilities, and

"(B) make such adjustments as are appropriate in the estimate of such aggregate amount not less frequently than quarterly.

"(4) ESTIMATE OF OTHER ASSETS REQUIRED.—The Corporation shall—

"(A) estimate the market value of assets held by it as a result of case resolution activities, with a reduction for expenses expected to be incurred by the Corporation in connection with the management and sale of such assets;

"(B) reflect the amounts so estimated in its financial statements; and

"(C) make such adjustments as are appropriate of such market value not less than quarterly.

"(5) MINIMUM NET WORTH REQUIRED.—The Corporation may not issue any note or similar obligation, and may not incur any liability under a guarantee or similar obligation, with respect to either the Bank Insurance Fund or the Savings Association Insurance Fund if, after reduction for the estimated cost of the obligation or guarantee, the net worth of the affected insurance fund would be less than 10 percent of assets.

"(6) Exception.—With the prior approval of the Secretary of the Treasury, the Corporation may issue or incur up to $5,000,000,000 in the aggregate of additional liabilities in excess of the limitations of paragraph (5). The amount which the Corporation may borrow from the Treasury under section 14 of this Act shall be reduced by the amount of additional liabilities issued or incurred under this paragraph.

"(7) Net worth and asset valuation.—For the purpose of paragraph (5)—

"(A) the assets of the Bank Insurance Fund or the Savings Association Insurance Fund shall be calculated based on the most recent audit of such Fund by the Comptroller General of the United States, subject to any adjustments described in paragraph (3) or (4) and taking into account any subsequent transactions; and

"(B) the net worth of the Bank Insurance Fund or the Savings Association Insurance Fund shall be calculated based on the most recent audit of such Fund by the Comptroller General of the United States, subject to any adjustments described in paragraphs (3) and (4) and taking into account any subsequent transactions.

"(d) Full Faith and Credit.—The full faith and credit of the United States is pledged to the payment of any obligation issued after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 by the Corporation, with respect to both principal and interest, if—

"(1) the principal amount of such obligation is stated in the obligation; and

"(2) the term to maturity or the date of maturity of such obligation is stated in the obligation.".

SEC. 220. REPORTS.

(a) In General.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended—

(1) by striking out subsection (a) and inserting the following:

"(a) Annual Reports on BIF, SAIF, and the FSLIC Resolution Fund.—

"(1) In general.—The Corporation shall annually submit a full report of its operations, activities, budget, receipts, and expenditures for the preceding 12-month period. The report shall include, with respect to the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, an analysis by the Corporation of—

"(A) the current financial condition of each such fund;

"(B) the purpose, effect, and estimated cost of each resolution action taken for an insured depository institution during the preceding year;

"(C) the extent to which the actual costs of assistance provided to, or for the benefit of, an insured depository institution during the preceding year exceeded the estimated costs of such assistance reported in a previous year under paragraph (A);

"(D) the exposure of each insurance fund to changes in those economic factors most likely to affect the condition of that fund;

"(E) a current estimate of the resources needed for the Bank Insurance Fund, the Savings Association Insurance Fund, or the FSLIC Resolution Fund to achieve the purposes of this Act; and

"(F) any findings, conclusions, and recommendations for legislative and administrative actions considered appropriate to future resolution activities by the Corporation.

"(2) MANNER OF SUBMISSION.—Such report shall be submitted to the President of the Senate and the Speaker of the House of Representatives, who shall cause the same to be printed for the information of Congress, and the President as soon as practicable after the first day of January each year.";

(2) by redesignating subsections (b), (c), and (d) as (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsections:

"(b) QUARTERLY REPORTS TO TREASURY.—

"(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal quarter, the Corporation shall provide to the Secretary of the Treasury a copy of the Corporation's financial operating plans and forecasts.

"(2) FINANCIAL CONDITION AND REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal quarter, the Corporation shall submit to the Secretary of the Treasury a copy of the report of the Corporation's financial condition as of the end of such fiscal quarter and the results of the Corporation's operations during such fiscal quarter.

"(3) ITEMS TO BE INCLUDED.—The plans, forecasts, and reports required under this subsection shall reflect the estimates required to be made under section 15(b) of the liabilities and obligations of the Corporation described in such section.

"(4) RULE OF CONSTRUCTION.—The requirement to provide plans, forecasts, and reports to the Secretary of the Treasury under this subsection may not be construed as implying any obligation on the part of the Corporation to obtain the consent or approval of such Secretary with respect to such plans, forecasts, and reports.

"(c) REPORTS TO OMB.—

"(1) FINANCIAL INFORMATION.—The Corporation shall continue to provide to the Director of the Office of Management and Budget financial information consistent with that contained in the reports that were being provided to the Director immediately prior to the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(2) FINANCIAL OPERATING PLANS AND FORECASTS.—The Corporation shall also provide to the Director copies of the Corporation's financial operating plans and forecasts as prepared by the Corporation in the ordinary course of its operations, and copies of the quarterly reports of the Corporation's financial condition and results of operations as prepared by the Corporation in the ordinary course of its operations.

"(3) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Corporation to consult with or obtain the consent or approval of the Director with respect to any reports, plans, forecasts, or other information referred to in paragraph (1) or (2) or any jurisdiction or oversight over the affairs or operations of the Corporation.

"(d) AUDIT.—

"(1) AUDIT REQUIRED.—The Comptroller General shall audit annually the financial transactions of the Corporation, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund in accordance with generally accepted government auditing standards.

"(2) ACCESS TO BOOKS AND RECORDS.—All books, records, accounts, reports, files, and property belonging to or used by the Corporation, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, or by an independent certified public accountant retained to audit the Fund's financial statements, shall be made available to the Comptroller General.".

(b) SPECIFIC REPORTS.—

(1) RISK-BASED ASSESSMENTS.—

12 USC 1827 note.

(A) REPORT REQUIRED.—The Federal Deposit Insurance Corporation shall study the establishment of premium assessment categories related to types of risk to the insurance funds and shall report its recommendations to the Congress not later than January 1, 1991. If the Corporation should recommend the establishment of such a risk-based assessment plan, it shall also provide a timetable and plan for implementation.

(B) CONGRESSIONAL RESPONSE.—Not later than 180 days after receipt by the Congress of the report required under subparagraph (A) and the accompanying plan and timetable, the Congress shall make a recommendation to the Chairperson of the Board of Directors regarding the disposition of such plan and timetable.

(2) STUDY OF DEPOSIT INSURANCE PASS-THROUGH.—Not later than 6 months after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall transmit to the Congress a report containing its findings and recommendations relating to the pass-through of deposit insurance either to individual investors in unit investment trust funds or to individual participants in pension or to profit sharing plans qualified under section 401 of the Internal Revenue Code of 1986. Such report shall also contain the Corporation's assessment of the potential effects of broadening deposit insurance coverage on the safety of the insurance funds and the operation of capital markets.

(3) REPORT ON DIRECTORS' AND OFFICERS' LIABILITY INSURANCE.—

(A) STUDY.—The Federal Deposit Insurance Corporation shall, together with the Secretary of the Treasury and the Attorney General, conduct a comprehensive study of directors' and officers' liability insurance and depository institution bonds, and the availability of such insurance for directors and officers of insured depository institutions. The study shall include—

(i) consideration of State laws limiting liability for directors and officers;

(ii) the effect of contractual provisions limiting insurance coverage when an institution is placed in receivership or conservatorship;

(iii) provisions limiting coverage when a claim is made by the Federal Deposit Insurance Corporation; and

(iv) provisions limiting claims made by one insured against another insured.

In addition, the study shall consider the need for such insurance or bonds and the effect any change in any of the above noted conditions or terms may have on the future availability of such insurance, and the ability of depository institutions to attract qualified officers and directors.

(B) REPORT.—Not later than 6 months after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Federal Deposit Insurance Corporation, together with the Secretary of the Treasury and the Attorney General, shall report the findings from the study under subparagraph (A) to the Congress, together with legislative recommendations, if appropriate.

SEC. 221. REGULATIONS GOVERNING INSURED DEPOSITORY INSTITUTIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) by striking out "(a)" and the 1st 2 sentences of subsection (a) and inserting the following:

"(a) INSURANCE LOGO.—

"(1) INSURED SAVINGS ASSOCIATIONS.—Each insured savings association shall display at each place of business maintained by such association a sign containing only the following items:

"(A) A statement that insured deposits are backed by the full faith and credit of the United States Government.

"(B) A statement that deposits are federally insured to $100,000.

"(C) The symbol of an eagle.

The sign shall not contain any reference to a Government agency and shall accord each item substantially equal prominence.

"(2) INSURED BANKS.—Not later than 30 days after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, each insured bank shall display at each place of business maintained by such bank one of the following:

"(A) The sign required to be displayed by insured banks under regulations prescribed by the Corporation in effect on January 1, 1989.

"(B) The sign prescribed under paragraph (1).

"(3) REGULATIONS.—The Corporation shall prescribe regulations to carry out the purposes of this subsection, including regulations governing the manner of display or use of such signs, except that the size of the sign prescribed under paragraph (1) shall be similar to that prescribed under paragraph (2)(A). Initial regulations under this subsection shall be prescribed on the date of enactment of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989.";

(2) in subsection (c)—

(A) in paragraph (2), by striking out subparagraph (C) and inserting the following:

"(C) the Corporation if the acquiring, assuming, or resulting bank is to be a State nonmember insured bank (except a District bank or a savings bank supervised by the Director of the Office of Thrift Supervision); and

"(D) the Director of the Office of Thrift Supervision if the acquiring, assuming, or resulting institution is to be a savings association.";

(B) by striking out paragraph (12);

(C) in paragraphs (3), (4), (6), (7), and (9), by inserting after the word "bank" or "banks" each time it appears, the words "or savings association" or "or savings associations", respectively; and

(D) in paragraph (3), by striking out "failure" and inserting in lieu thereof "default";

(3) in subsection (i)(2)—

(A) by striking out "insured bank" and inserting in lieu thereof "insured Federal depository institution";

(B) by striking out "insured State bank" and inserting in lieu thereof "insured State depository institution";

(C) by striking out the period at the end of subpargraph (C) and inserting in lieu thereof "; and";

(D) by inserting after subparagraph (C) the following new subparagraph:

"(D) the Director of the Office of Thrift Supervision if the resulting institution is to be an insured State savings association.";

(E) in paragraph (4)(D), by inserting "and fitness" after "character"; and

(F) by striking out paragraph (5); and

(4) by adding at the end the following:

"(m) ACTIVITIES OF SAVINGS ASSOCIATIONS AND THEIR SUBSIDIARIES.—

"(1) PROCEDURES.—When an insured savings association establishes or acquires a subsidiary or when an insured savings association elects to conduct any new activity through a subsidiary that the insured savings association controls, the insured savings association—

"(A) shall notify the Corporation and the Director of the Office of Thrift Supervision not less than 30 days prior to the establishment, or acquisition, of any such subsidiary, and not less than 30 days prior to the commencement of any such activity, and in either case shall provide at that time such information as each such agency may, by regulation, require; and

"(B) shall conduct the activities of the subsidiary in accordance with regulations and orders of the Director of the Office of Thrift Supervision.

"(2) ENFORCEMENT POWERS.—With respect to any subsidiary of an insured savings association:

"(A) the Corporation and the Director of the Office of Thrift Supervision shall each have, with respect to such subsidiary, the respective powers that each has with respect to the insured savings association pursuant to this section or section 8; and

"(B) the Director of the Office of Thrift Supervision may determine, after notice and opportunity for hearing, that the continuation by the insured savings association of its ownership or control of, or its relationship to, the subsidiary—

"(i) constitutes a serious risk to the safety, soundness, or stability of the insured savings association, or

"(ii) is inconsistent with sound banking principles or with the purposes of this Act.

Upon making any such determination, the Corporation or the Director of the Office of Thrift Supervision shall have authority to order the insured savings association to divest itself of control of the subsidiary. The Director of the Office of Thrift Supervision may take any other corrective measures with respect to the subsidiary, including the authority to require the subsidiary to terminate the activities or operations posing such risks, as the Director may deem appropriate.

"(3) ACTIVITIES INCOMPATIBLE WITH DEPOSIT INSURANCE.—

"(A) IN GENERAL.—The Corporation may determine by regulation or order that any specific activity poses a serious threat to the Savings Association Insurance Fund. Prior to adopting any such regulation, the Corporation shall consult with the Director of the Office of Thrift Supervision and shall provide appropriate State supervisors the opportunity to comment thereon, and the Corporation shall specifically take such comments into consideration. Any such regulation shall be issued in accordance with section 553 of title 5, United States Code. If the Board of Directors makes such a determination with respect to an activity, the Corporation shall have authority to order that no Savings Association Insurance Fund member may engage in the activity directly.

"(B) AUTHORITY OF DIRECTOR.—This section does not limit the authority of the Office of Thrift Supervision to issue regulations to promote safety and soundness or to enforce compliance with other applicable laws.

"(C) ADDITIONAL AUTHORITY OF FDIC TO PREVENT SERIOUS RISKS TO INSURANCE FUND.—Notwithstanding subparagraph (A), the Corporation may prescribe and enforce such regulations and issue such orders as the Corporation determines to be necessary to prevent actions or practices of savings associations that pose a serious threat to the Savings Association Insurance Fund or the Bank Insurance Fund.

"(4) 'SUBSIDIARY' DEFINED.—As used in this subsection, the term 'subsidiary' does not include an insured depository institution.

"(5) APPLICABILITY TO CERTAIN SAVINGS BANKS.—Subparagraphs (A) and (B) of paragraph (1) of this subsection do not apply to—

"(A) any Federal savings bank that was chartered prior to October 15, 1982, as a savings bank under State law, or

"(B) a savings association that acquired its principal assets from an institution that was chartered prior to October 15, 1982, as a savings bank under State law.

"(n) CALCULATION OF CAPITAL.—No appropriate Federal banking agency shall allow any insured depository institution to include an unidentifiable intangible asset in its calculation of compliance with the appropriate capital standard, if such unidentifiable intangible asset was acquired after April 12, 1989, except to the extent permitted under section 5(t) of the Home Owners' Loan Act."

SEC. 222. ACTIVITIES OF SAVINGS ASSOCIATIONS.

The Federal Deposit Insurance Act is amended by adding at the end the following new section:

"SEC. 28. ACTIVITIES OF SAVINGS ASSOCIATIONS.

12 USC 1831e.

"(a) In General.—On and after January 1, 1990, a savings association chartered under State law may not engage as principal in any type of activity, or in any activity in an amount, that is not permissible for a Federal savings association unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the affected deposit insurance fund; and

"(2) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(b) Differences of Magnitude Between State and Federal Powers.—Notwithstanding subsection (a)(1), if an activity (other than an activity described in section 5(c)(2)(B) of the Home Owners' Loan Act) is permissible for a Federal savings association, a savings association chartered under State law may engage as principal in that activity in an amount greater than the amount permissible for a Federal savings association if—

"(1) the Corporation has not determined that engaging in that amount of the activity poses any significant risk to the affected deposit insurance fund; and

"(2) the savings association chartered under State law is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(c) Equity Investments by State Savings Associations.—

"(1) In general.—Notwithstanding subsections (a) and (b), a savings association chartered under State law may not directly acquire or retain any equity investment of a type or in an amount that is not permissible for a Federal savings association.

"(2) Exception for service corporations.—Paragraph (1) does not prohibit a savings association from acquiring or retaining shares of one or more service corporations if—

"(A) the Corporation has determined that no significant risk to the affected deposit insurance fund is posed by—

"(i) the amount that the association proposes to acquire or retain, or

"(ii) the activities in which the service corporation engages; and

"(B) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under section 5(t) of the Home Owners' Loan Act.

"(3) Transition rule.—

"(A) In general.—The Corporation shall require any savings association to divest any equity investment the retention of which is not permissible under paragraph (1) or (2) as quickly as can be prudently done, and in any event not later than July 1, 1994.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any savings association on May 1, 1989, the savings association shall be deemed not to be in violation of the prohibition in paragraph (1) or (2) on retaining such investment so long as the savings association complies with any applicable requirement established by the Corporation pursuant to subparagraph (A) for divesting such investments.

"(d) CORPORATE DEBT SECURITIES NOT OF INVESTMENT GRADE.—

"(1) IN GENERAL.—No savings association may, directly or through a subsidiary, acquire or retain any corporate debt security not of investment grade.

"(2) EXCEPTION FOR SECURITIES HELD BY QUALIFIED AFFILIATE.—Paragraph (1) shall not apply with respect to any corporate debt security not of investment grade which is acquired and retained by any qualified affiliate of a savings association.

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any savings association or any subsidiary of any savings association to divest any corporate debt security not of investment grade the retention of which is not permissible under paragraph (1) as quickly as can be prudently done, and in any event not later than July 1, 1994.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any corporate debt security not of investment grade held by any savings association or subsidiary on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the savings association or subsidiary shall be deemed not to be in violation of the prohibition in paragraph (1) on retaining such investment so long as the association or subsidiary complies with any applicable requirement established by the Corporation pursuant to subparagraph (A) for divesting such securities.

"(4) DEFINITIONS.—For purposes of this section—

"(A) INVESTMENT GRADE.—Any corporate debt security is not of 'investment grade' unless that security, when acquired by the savings association or subsidiary, was rated in one of the 4 highest rating categories by at least one nationally recognized statistical rating organization.

"(B) QUALIFIED AFFILIATE.—The term 'qualified affiliate' means—

"(i) in the case of a stock savings association, an affiliate other than a subsidiary or an insured depository institution; and

"(ii) in the case of a mutual savings association, a subsidiary other than an insured depository institution, so long as all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital.

"(C) CERTAIN SECURITIES NOT INCLUDED.—The term 'corporate debt security not of investment grade' does not include any obligation issued or guaranteed by a corporation that may be held by a Federal savings association without limitation as to percentage of assets under subparagraphs (D), (E), or (F) of section 5(c)(1) of the Home Owners' Loan Act.

"(e) TRANSFER OF CORPORATE DEBT SECURITY NOT OF INVESTMENT GRADE IN EXCHANGE FOR A QUALIFIED NOTE.—

"(1) ACQUISITION OF NOTE.—Notwithstanding subsections (a), (b), and (c) of section 5 of the Home Owners' Loan Act and any other provision of Federal or State law governing extensions of credit by savings associations, any insured savings association, and any subsidiary of any insured savings association, that, on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, holds any corporate debt security not of investment grade may acquire a qualified note in exchange for the transfer of such security to—

"(A) any holding company which controls 80 percent or more of the shares of such insured savings association; or

"(B) any company other than an insured savings association, or any subsidiary of any insured savings association, 80 percent or more of the shares of which are controlled by such holding company,

if the conditions of paragraph (2) are met.

"(2) CONDITIONS FOR EXCHANGE OF SECURITY FOR QUALIFIED NOTE.—The conditions of this paragraph are met if—

"(A) the insured savings association was in compliance with applicable capital requirements on December 31, 1988, and the insured savings association after such date—

"(i) remains in compliance with applicable capital requirements; or

"(ii) adopts and complies with a capital plan acceptable to the Director of the Office of Thrift Supervision;

"(B) the company to which the corporate debt security not of investment grade is transferred is not a bank holding company, an insured savings association, or a direct or indirect subsidiary of such holding company or insured savings association;

"(C) before the end of the 90-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the insured savings association notifies the Director of the Office of Thrift Supervision of such association's intention to transfer the corporate debt security not of investment grade to the savings and loan holding company or the subsidiary of such holding company;

"(D) the transfer of the corporate debt security not of investment grade is completed—

"(i) before the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, in the case of an insured savings association that, as of such date, is controlled by a savings and loan holding company; or

"(ii) before the end of the 2-year period beginning on such date, in the case of a savings association that is not, as of such date, a subsidiary of a savings and loan holding company;

"(E) the insured savings association receives in exchange for the corporate debt security not of investment grade the fair market value of such security;

"(F) the Director of the Office of Thrift Supervision has—

"(i) approved the transaction; and

"(ii) determined that the transfer represents a complete and effective divestiture of the corporate debt security not of investment grade and is in compliance with the provisions of this subsection; and

"(G) any gain on the sale of the corporate debt security not of investment grade is recognized, and included for applicable regulatory capital requirements, by the insured savings association only at such time and to the extent that the insured savings association receives payment of principal on the note in cash in excess of the fair market value of the transferred corporate debt security not of investment grade as carried on the accounts of the insured savings association immediately prior to the transfer.

"(3) QUALIFIED NOTE DEFINED.—The term 'qualified note' means any note that—

"(A) is at all times fully secured by the corporate debt security not of investment grade transferred in exchange for the note, or by other collateral of at least equivalent value that is acceptable to the Director of the Office of Thrift Supervision;

"(B) contains provisions acceptable to the Director of the Office of Thrift Supervision that would—

"(i) prevent any action to encumber or impair the value of the collateral referred to in subparagraph (A); and

"(ii) allow the sale of the corporate debt security not of investment grade if the proceeds of the sale are reinvested in assets of equivalent value;

"(C) is on market terms, including interest rate, which must in all cases be above the insured savings association's borrowing rate for similar term funds;

"(D) is fully repayable over a period of time not to exceed 5 years from the date of transfer;

"(E) is repaid with annual principal payments at least as large as would be necessary to repay the note within 5 years if it were on a level payment amortization schedule and the interest rate for the first year of repayment were fixed throughout the amortization period;

"(F) is fully guaranteed by each holding company of the insured savings association that acquires such note; and

"(G) is repaid in full in cash in accordance with its terms and this subsection.

"(4) FAILURE TO REPAY ON SCHEDULE.—The exemption provided by this subsection from subsections (a), (b), and (c) of section 11 of the Home Owners' Loan Act any other applicable provision of Federal or State law shall terminate immediately if the insured savings association or any affiliate of such association fails to comply with the terms of the qualified note or this subsection.

"(f) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(g) ACTIVITY DEFINED.—For purposes of subsections (a) and (b)—

"(1) IN GENERAL.—The term 'activity' includes acquiring or retaining any investment.

"(2) DIVESTITURE OF CERTAIN ASSETS.— Notwithstanding paragraph (1), subsections (a) and (b) shall not be construed to require a savings association to divest itself of any assets acquired before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(h) DISCLOSURES BY UNINSURED SAVINGS ASSOCIATIONS.—

"(1) IN GENERAL.—Any savings association the deposits of which are not insured by the Corporation under this Act shall disclose clearly and conspicuously in periodic statements of account and in all advertising that the savings association's deposits are 'not federally insured'.

"(2) MANNER AND CONTENT.—The Corporation may, by regulation or order, prescribe the manner and content of the disclosure.

"(3) ENFORCEMENT.—Compliance with the requirements of this subsection, and any regulation prescribed or order issued under this subsection, shall be enforced under section 8 in the same manner and to the same extent as if the savings association were an insured State nonmember bank.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section may not be construed as limiting—

"(1) any other authority of the Corporation; or

"(2) any authority of the Director of the Office of Thrift Supervision or of a State to impose more stringent restrictions.".

SEC. 223. NONDISCRIMINATION.

Section 22 of the Federal Deposit Insurance Act (12 U.S.C. 1830) is amended to read as follows:

"SEC. 22. NONDISCRIMINATION.

"It is not the purpose of this Act to discriminate in any manner against State nonmember banks or State savings associations and in favor of national or member banks or Federal savings associations, respectively. It is the purpose of this Act to provide all banks and savings associations with the same opportunity to obtain and enjoy the benefits of this Act.".

SEC. 224. BROKERED DEPOSITS.

(a) IN GENERAL.—The Federal Deposit Insurance Act is amended by inserting after section 28 (as added by section 222 of this title) the following new section:

"SEC. 29. BROKERED DEPOSITS.

12 USC 1831f.

"(a) IN GENERAL.—A troubled institution may not accept funds obtained, directly or indirectly, by or through any deposit broker for deposit into 1 or more deposit accounts.

"(b) RENEWALS AND ROLLOVERS TREATED AS ACCEPTANCE OF FUNDS.—Any renewal of an account in any troubled institution and any rollover of any amount on deposit in any such account shall be treated as an acceptance of funds by such troubled institution for purposes of subsection (a).

"(c) WAIVER AUTHORITY.—The Corporation may, on a case-by-case basis and upon application by an insured depository institution, waive the applicability of subsection (a) upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice with respect to such institution.

"(d) LIMITED EXCEPTION FOR CERTAIN CONSERVATORSHIPS.—In the case of any insured depository institution for which the Corporation has been appointed as conservator, subsection (a) shall not apply to the acceptance of deposits (described in such subsection) by such institution if the Corporation determines that the acceptance of such deposits—

"(1) is not an unsafe or unsound practice; and

"(2) either—

"(A) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; or

"(B) is consistent with the conservator's fiduciary duty to minimize the losses of the institution.

"(e) ADDITIONAL RESTRICTIONS.—The Corporation may impose, by regulation or order, such additional restrictions on the acceptance of brokered deposits by any troubled institution as the Corporation may determine to be appropriate.

"(f) DEFINITIONS RELATING TO DEPOSIT BROKER.—

"(1) DEPOSIT BROKER.—The term 'deposit broker' means—

"(A) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; and

"(B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

"(2) EXCLUSIONS.—The term 'deposit broker' does not include—

"(A) an insured depository institution, with respect to funds placed with that depository institution;

"(B) an employee of an insured depository institution, with respect to funds placed with the employing depository institution;

"(C) a trust department of an insured depository institution, if the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(D) the trustee of a pension or other employee benefit plan, with respect to funds of the plan;

"(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

"(F) the trustee of a testamentary account;

"(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(H) a trustee or custodian of a pension or profitsharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986; or

"(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

"(3) INCLUSION OF DEPOSITORY INSTITUTIONS ENGAGING IN CERTAIN ACTIVITIES.—Notwithstanding paragraph (2), the term 'deposit broker' includes any insured depository institution, and any employee of any insured depository institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions having the same type of charter in such depository institution's normal market area.

"(4) EMPLOYEE.—For purposes of this subsection, the term 'employee' means any employee—

"(A) who is employed exclusively by the insured depository institution;

"(B) whose compensation is primarily in the form of a salary;

"(C) who does not share such employee's compensation with a deposit broker; and

"(D) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employs such individual.

"(g) TROUBLED INSTITUTION DEFINED.—The term 'troubled institution' means any insured depository institution which does not meet the minimum capital requirements applicable with respect to such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to deposits accepted after the end of the 120-day period beginning on the date of the enactment of this Act.

12 USC 1831f note.

SEC. 225. CONTRACTS BETWEEN DEPOSITORY INSTITUTIONS AND PERSONS PROVIDING GOODS, PRODUCTS, OR SERVICES.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 (as added by section 224 of this title) the following new section:

"SEC. 30. CONTRACTS BETWEEN DEPOSITORY INSTITUTIONS AND PERSONS PROVIDING GOODS, PRODUCTS, OR SERVICES.

12 USC 1831g.

"(a) IN GENERAL.—An insured depository institution may not enter into a written or oral contract with any person to provide goods, products, or services to or for the benefit of such depository institution if the performance of such contract would adversely affect the safety or soundness of the institution.

"(b) RULEMAKING.—The Corporation shall prescribe such regulations and issue such orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of, and prevent evasions of, this section.

Regulations.

"(c) ENFORCEMENT.—Any action taken by any appropriate Federal banking agency under section 8 to enforce compliance on the part of any insured depository institution with the requirements of this section may include a requirement that such institution properly reflect the transaction on its books and records.

"(d) NO PRIVATE RIGHT OF ACTION.—This section may not be construed as creating any private right of action.

"(e) STUDY.—

"(1) IN GENERAL.—The Attorney General and the Comptroller General of the United States shall jointly conduct a study on the extent to which—

"(A) insured depository institutions are entering into contracts with vendors under which venders agree to purchase stock or assets from insured depository institutions or to invest capital in or make deposits in such institutions; and

"(B) if such practices occur, the extent to which such practices are having an anticompetitive effect and should be prohibited.

"(2) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Attorney General and the Comptroller General shall submit a report to the Congress on the results of the study conducted pursuant to paragraph (1).".

SEC. 226. SAVINGS ASSOCIATION INSURANCE FUND INDUSTRY ADVISORY COMMITTEE ESTABLISHED.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 30 (as added by section 225 of this title) the following new section:

12 USC 1831h.

"SEC. 31. SAVINGS ASSOCIATION INSURANCE FUND INDUSTRY ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—There is hereby established the Savings Association Insurance Fund Industry Advisory Committee (hereinafter referred to in this section as the 'Committee').

"(b) MEMBERSHIP.—The Committee shall consist of 18 members, appointed as follows:

"(1) 1 member elected from each Federal home loan bank district (by the members of the Board of Directors of each such bank who were elected by the members of such bank) from among individuals residing therein who are officers of insured depository institutions that are Savings Association Insurance Fund members.

"(2) 6 members appointed by the Corporation from among individuals who shall represent the public interest.

"(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

"(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

"(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

"(f) AUTHORITY OF THE COMMITTEE.—The Committee may select its Chairperson, Vice Chairperson, and Secretary, and adopt methods of procedure, and shall have power—

"(1) to confer with the Board of Directors on general and special business conditions and regulatory and other matters affecting insured financial institutions that are members of the Savings Association Insurance Fund; and

"(2) to request information, and to make recommendations, with respect to matters within the jurisdiction of the Corporation.

"(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

"(h) REPORTS.—The Committee shall submit a semiannual written report to the Committee on Banking, Finance and Urban Affairs of the House and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the

Committee for such semiannual period and contain such recommendations as the Committee considers appropriate.

"(i) Provision of Staff and Other Resources.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to Congress, under this section.

"(j) Federal Advisory Committee Act Does Not Apply.—The Federal Advisory Committee Act shall not apply to the Committee.

"(k) Sunset.—The Committee shall cease to exist 10 years after the enactment of this section.".

TITLE III—SAVINGS ASSOCIATIONS

SEC. 301. AMENDMENT TO HOME OWNERS' LOAN ACT OF 1933.

The Home Owners' Loan Act of 1933 is amended to read as follows:

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

12 USC 1461.

"This Act may be cited as the 'Home Owners' Loan Act'.

"TABLE OF CONTENTS

"Sec. 1. Short title and table of contents.
"Sec. 2. Definitions.
"Sec. 3. Director of the Office of Thrift Supervision.
"Sec. 4. Supervision of savings associations.
"Sec. 5. Federal savings associations.
"Sec. 6. Liquid asset requirements.
"Sec. 7. Applicability.
"Sec. 8. District associations.
"Sec. 9. Examination fees.
"Sec. 10. Regulation of holding companies.
"Sec. 11. Transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders.
"Sec. 12. Advertising.
"Sec. 13. Powers of examiners.
"Sec. 14. Separability provision.

"SEC. 2. DEFINITIONS.

12 USC 1462.

"For purposes of this Act—

"(1) Director.—The term 'Director' means the Director of the Office of Thrift Supervision.

"(2) Corporation.—The term 'Corporation' means the Federal Deposit Insurance Corporation.

"(3) Office.—The term 'Office' means the Office of Thrift Supervision.

"(4) Savings association.—The term 'savings association' means a savings association, as defined in section 3 of the Federal Deposit Insurance Act, the deposits of which are insured by the Corporation.

"(5) Federal savings association.—The term 'Federal savings association' means a Federal savings association or a Federal savings bank chartered under section 5 of this Act.

"(6) National bank.—The term 'national bank' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(7) Federal banking agencies.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

"(8) State.—The term 'State' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(9) Affiliate.—The term 'affiliate' means any person that controls, is controlled by, or is under common control with, a savings association, except as provided in section 10.

12 USC 1462a.

"SEC. 3. DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

"(a) Establishment of Office.—There is established the Office of Thrift Supervision, which shall be an office in the Department of the Treasury.

"(b) Establishment of Position of Director.—

"(1) In general.—There is established the position of the Director of the Office of Thrift Supervision, who shall be the head of the Office of Thrift Supervision and shall be subject to the general oversight of the Secretary of the Treasury.

"(2) Authority to prescribe regulations.—The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary for carrying out this Act and all other laws within the Director's jurisdiction.

"(3) Autonomy of director.—The Secretary of the Treasury may not intervene in any matter or proceeding before the Director unless otherwise provided by law.

"(c) Appointment; Term.—

"(1) Appointment.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

"(2) Term.—The Director shall be appointed for a term of 5 years.

"(3) Vacancy.—A vacancy in the position of Director which occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established in paragraph (1) and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

"(4) Service after end of term.—An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

"(5) Transitional provision.—Notwithstanding paragraphs (1) and (2), the Chairman of the Federal Home Loan Bank Board on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall be the Director until the date on which that individual's term as Chairman of the Federal Home Loan Bank Board would have expired.

"(d) Prohibition on Financial Interests.—The Director shall not have a direct or indirect financial interest in any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act.

"(e) Powers of the Director.—The Director shall have all powers which—

"(1) were vested in the Federal Home Loan Bank Board (in the Board's capacity as such) or the Chairman of such Board on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

"(2) were not—

"(A) transferred to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Resolution Trust Corporation, or the Federal Home Loan Mortgage Corporation pursuant to any amendment made by such Act; or

"(B) established under any provision of law repealed by such Act.

"(f) ANNUAL REPORT REQUIRED.—The Director shall make an annual report to the Congress. Such report shall include—

"(1) a description of any changes the Director has made or is considering making in the district offices of the Office, including a description of the geographic allocation of the Office's resources and personnel used to carry out examination and supervision functions; and

"(2) a description of actions taken to carry out section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(g) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Director shall fix the compensation and number of, and appoint and direct, all employees of the Office of Thrift Supervision notwithstanding section 301(f)(1) of title 31, United States Code. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States.

"(2) RATES OF BASIC PAY.—Rates of basic pay for employees of the Office may be set and adjusted by the Director without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(3) ADDITIONAL COMPENSATION AND BENEFITS.—The Director may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any Federal banking agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Director shall consult, and seek to maintain comparability with, the Federal banking agencies.

"(4) DELEGATION AUTHORITY.—

"(A) IN GENERAL.—The Director may—

"(i) designate who shall act as Director in the Director's absence; and

"(ii) delegate to any employee, representative, or agent any power of the Director.

"(B) LIMITATIONS.—Notwithstanding subparagraph (A)(ii), the Director shall not, directly or indirectly—

"(i) after October 10, 1989, delegate to any Federal home loan bank or to any officer, director, or employee of a Federal home loan bank, any power involving examining, supervising, taking enforcement action with respect to, or otherwise regulating any savings association, savings and loan holding company, or other person subject to regulation by the Director; or

"(ii) delegate the Director's authority to serve as a member of the Corporation's Board of Directors.

"(h) FUNDING THROUGH ASSESSMENTS.—The compensation of the Director and other employees of the Office and all other expenses thereof may be paid from assessments levied under this Act.

"(i) GAO AUDIT.—The Director shall make available to the Comptroller General of the United States all books and records necessary to audit all of the activities of the Office of Thrift Supervision.

12 USC 1463. **"SEC. 4. SUPERVISION OF SAVINGS ASSOCIATIONS.**

"(a) Federal Savings Associations.—

"(1) In general.—The Director shall provide for the examination, safe and sound operation, and regulation of savings associations.

"(2) Regulations.—The Director may issue such regulations as the Director determines to be appropriate to carry out the responsibilities of the Director or the Office.

"(3) Safe and sound housing credit to be encouraged.—The Director shall exercise all powers granted to the Director under this Act so as to encourage savings associations to provide credit for housing safely and soundly.

"(b) Accounting and Disclosure.—

"(1) In general.—The Director shall, by regulation, prescribe uniform accounting and disclosure standards for savings associations, to be used in determining savings associations' compliance with all applicable regulations.

"(2) Specific requirements for accounting standards.—Subject to section 5(t), the uniform accounting standards prescribed under paragraph (1) shall—

"(A) incorporate generally accepted accounting principles to the same degree that such principles are used to determine compliance with regulations prescribed by the Federal banking agencies;

"(B) allow for no deviation from full compliance with such standards as are in effect after December 31, 1993; and

"(C) prior to January 1, 1994, require full compliance by savings associations with accounting standards in effect at any time before such date not later than provided under the schedule in section 563.23-3 of title 12, Code of Federal Regulations (as in effect on May 1, 1989).

"(3) Authority to prescribe more stringent accounting standards.—The Director may at any time prescribe accounting standards more stringent than required under paragraph (2) if the Director determines that the more stringent standards are necessary to ensure the safe and sound operation of savings associations.

"(c) Stringency of Standards.—All regulations and policies of the Director governing the safe and sound operation of savings associations, including regulations and policies governing asset classification and appraisals, shall be no less stringent than those established by the Comptroller of the Currency for national banks.

"(d) Investment of Certain Funds in Accounts of Savings Associations.—The savings accounts and share accounts of savings associations insured by the Corporation shall be lawful investments and may be accepted as security for all public funds of the United States, fiduciary and trust funds under the authority or control of the United States or any officer thereof, and for the funds of all corporations organized under the laws of the United States (subject to any regulatory authority otherwise applicable), regardless of any limitation of law upon the investment of any such funds or upon the acceptance of security for the investment or deposit of any of such funds.

"(e) Participation by Savings Associations in Lotteries and Related Activities.—

"(1) Participation prohibited.—No savings association may—

"(A) deal in lottery tickets;

"(B) deal in bets used as a means or substitute for participation in a lottery;

"(C) announce, advertise, or publicize the existence of any lottery; or

"(D) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

"(2) Use of facilities prohibited.—No savings association may permit—

"(A) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under paragraph (1); or

"(B) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under paragraph (1).

"(3) Definitions.—For purposes of this subsection—

"(A) Deal in.—The term 'deal in' includes making, taking, buying, selling, redeeming, or collecting.

"(B) Lottery.—The term 'lottery' includes any arrangement under which—

"(i) 3 or more persons (hereafter in this subparagraph referred to as the 'participants') advance money or credit to another in exchange for the possibility or expectation that 1 or more but not all of the participants (hereafter in this paragraph referred to as the 'winners') will receive by reason of those participants' advances more than the amounts those participants have advanced; and

"(ii) the identity of the winners is determined by any means which includes—

"(I) a random selection;

"(II) a game, race, or contest; or

"(III) any record or tabulation of the result of 1 or more events in which any participant has no interest except for the bearing that event has on the possibility that the participant may become a winner.

"(C) Lottery ticket.—The term 'lottery ticket' includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

"(4) Exception for state lotteries.—Paragraphs (1) and (2) shall not apply with respect to any savings association accepting funds from, or performing any lawful services for, any State operating a lottery, or any officer or employee of such a State who is charged with administering the lottery.

"(5) Regulations.—The Director shall prescribe such regulations as may be necessary to provide for enforcement of this subsection and to prevent any evasion of any provision of this subsection.

"(f) Federally Related Mortgage Loan Disclosures.—A savings association may not make a federally related mortgage loan to an agent, trustee, nominee, or other person acting in a fiduciary capacity without requiring that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the savings association. At the request of the Director, the savings association shall report to the Director the identity of such person and the nature and amount of the loan.

Reports.

"(g) PREEMPTION OF STATE USURY LAWS.—(1) Notwithstanding any State law, a savings association may charge interest on any extension of credit at a rate of not more than 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which such savings association is located or at the rate allowed by the laws of the State in which such savings association is located, whichever is greater.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such savings association would be permitted to charge in the absence of this subsection, the receiving or charging a greater rate of interest than that prescribed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the extension of credit carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the date of such payment, an amount equal to twice the amount of the interest paid from the savings association taking or receiving such interest.

"(h) FORM AND MATURITY OF SECURITIES.—No savings association shall—

"(1) issue securities which guarantee a definite maturity except with the specific approval of the Director, or

"(2) issue any securities the form of which has not been approved by the Director.

12 USC 1464.

Housing.

"SEC. 5. FEDERAL SAVINGS ASSOCIATIONS.

"(a) IN GENERAL.—In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Director is authorized, under such regulations as the Director may prescribe—

"(1) to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings associations (including Federal savings banks), and

"(2) to issue charters therefor,

giving primary consideration of the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.

"(b) DEPOSITS AND RELATED POWERS.—

"(1) DEPOSIT ACCOUNTS.—

"(A) Subject to the terms of its charter and regulations of the Director, a Federal savings association may—

"(i) raise funds through such deposit, share, or other accounts, including demand deposit accounts (hereafter in this section referred to as 'accounts'); and

"(ii) issue passbooks, certificates, or other evidence of accounts.

"(B) A Federal savings association may not—

"(i) pay interest on a demand account; or

"(ii) permit any overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such overdraft in such savings association's account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of a Federal savings association shall, to such extent as may be provided by its charter or by regulations of the Director, be members of the savings association, and shall have such voting rights and such other rights as are thereby provided.

"(C) A Federal savings association may require not less than 14 days notice prior to payment of savings accounts if the charter of the savings association or the regulations of the Director so provide.

"(D) If a Federal savings association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice), the payment of withdrawals from accounts shall be subject to such rules and procedures as may be prescribed by the savings association's charter or by regulation of the Director. Except as authorized in writing by the Director, any Federal savings association that fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition.

"(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the Federal savings association, as the Director may by regulation provide.

"(F) A Federal savings association may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Director.

"(2) OTHER LIABILITIES.—To such extent as the Director may authorize in writing, a Federal savings association may borrow, may give security, may be surety as defined by the Director and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock.

"(3) LOANS FROM STATE HOUSING FINANCE AGENCIES.—

"(A) IN GENERAL.—Subject to regulation by the Director but without regard to any other provision of this subsection, any Federal savings association that is in compliance with the capital standards in effect under subsection (t) may borrow funds from a State mortgage finance agency of the State in which the head office of such savings association is situated to the same extent as State law authorizes a savings association organized under the laws of such State to borrow from the State mortgage finance agency.

"(B) INTEREST RATE.—A Federal savings association may not make any loan of funds borrowed under subparagraph (A) at an interest rate which exceeds by more than 1¾ percent per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

"(4) CREDIT CARDS.—Subject to regulations of the Director, a Federal savings association may issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations.

"(5) Mutual capital certificates.—In accordance with regulations issued by the Director, mutual capital certificates may be issued and sold directly to subscribers or through underwriters. Such certificates may be included in calculating capital for the purpose of subsection (t) to the extent permitted by the Director. The issuance of certificates under this paragraph does not constitute a change of control or ownership under this Act or any other law unless there is in fact a change in control or reorganization. Regulations relating to the issuance and sale of mutual capital certificates shall provide that such certificates—

"(A) are subordinate to all savings accounts, savings certificates, and debt obligations;

"(B) constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the Federal savings association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(C) are entitled to the payment of dividends; and

"(D) may have a fixed or variable dividend rate.

"(c) Loans and Investments.—To the extent specified in regulations of the Director, a Federal savings association may invest in, sell, or otherwise deal in the following loans and other investments:

"(1) Loans or investments without percentage of assets limitation.—Without limitation as a percentage of assets, the following are permitted:

"(A) Account loans.—Loans on the security of its savings accounts and loans specifically related to transaction accounts.

"(B) Residential real property loans.—Loans on the security of liens upon residential real property.

"(C) United states government securities.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

"(D) Federal home loan bank and federal national mortgage association securities.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

"(E) Federal home loan mortgage corporation instruments.—Investments in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

"(F) Other government securities.—Investments in obligations, participations, securities, or other instruments issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association, or any agency of the United States. A savings association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act.

"(G) Deposits.—Investments in accounts of any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act.

"(H) STATE SECURITIES.—Investments in obligations issued by any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision). A Federal savings association may not invest more than 10 percent of its capital in obligations of any one issuer, exclusive of investments in general obligations of any issuer.

"(I) PURCHASE OF INSURED LOANS.—Purchase of loans secured by liens on improved real estate which are insured or guaranteed under the National Housing Act, the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, United States Code.

"(J) HOME IMPROVEMENT AND MANUFACTURED HOME LOANS.—Loans made to repair, equip, alter, or improve any residential real property, and loans made for manufactured home financing.

Real property.

"(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans insured under section 240 of the National Housing Act.

"(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to—

"(i) financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or

"(ii) any broker or dealer registered with the Securities and Exchange Commission,

which are secured by loans, obligations, or investments in which the Federal savings association has the statutory authority to invest directly.

"(M) LIQUIDITY INVESTMENTS.—Investments which, when made, are of a type that may be used to satisfy any liquidity requirement imposed by the Director pursuant to section 6.

"(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968, and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act.

"(O) CERTAIN HUD INSURED OR GUARANTEED INVESTMENTS.—Loans that are secured by mortgages—

"(i) insured under title X of the National Housing Act, or

"(ii) guaranteed under title IV of the Housing and Urban Development Act of 1968, under part B of the National Urban Policy and New Community Development Act of 1970, or under section 802 of the Housing and Community Development Act of 1974.

"(P) STATE HOUSING CORPORATION INVESTMENTS.—Obligations of and loans to any State housing corporation, if—

"(i) such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act, and

"(ii) in the event of default, the holder of the obligations or loans has the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

"(Q) INVESTMENT COMPANIES.—A Federal savings association may invest in, redeem, or hold shares or certificates issued by any open-end management investment company which—

"(i) is registered with the Securities and Exchange Commission under the Investment Company Act of 1940, and

"(ii) the portfolio of which is restricted by such management company's investment policy (changeable only if authorized by shareholder vote) solely to investments that a Federal savings association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal in.

"(R) MORTGAGE-BACKED SECURITIES.—Investments in securities that—

"(i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933; or

"(ii) are mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934),

subject to such regulations as the Director may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales price, or both.

"(2) LOANS OR INVESTMENTS LIMITED TO A PERCENTAGE OF ASSETS OR CAPITAL.—The following loans or investments are permitted, but only to the extent specified:

"(A) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans under this paragraph shall not exceed 10 percent of the assets of the Federal savings association.

"(B) NONRESIDENTIAL REAL PROPERTY LOANS.—

"(i) IN GENERAL.—Loans on the security of liens upon nonresidential real property. Except as provided in clause (ii), the aggregate amount of such loans shall not exceed 400 percent of the Federal savings association's capital, as determined under subsection (t).

"(ii) EXCEPTION.—The Director may permit a savings association to exceed the limitation set forth in clause (i) if the Director determines that the increased authority—

"(I) poses no significant risk to the safe and sound operation of the association, and

"(II) is consistent with prudent operating practices.

"(iii) MONITORING.—If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations

"(C) INVESTMENTS IN PERSONAL PROPERTY.—Investments in tangible personal property, including, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale. Investments under this subparagraph may not exceed 10 percent of the assets of the Federal savings association.

"(D) CONSUMER LOANS AND CERTAIN SECURITIES.—A Federal savings association may make loans for personal, family, or household purposes, including loans reasonably incident to providing such credit, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Director. Loans and other investments under this subparagraph may not exceed 30 percent of the assets of the Federal savings association.

"(3) LOANS OR INVESTMENTS LIMITED TO 5 PERCENT OF ASSETS.—The following loans or investments are permitted, but not to exceed 5 percent of assets of a Federal savings association for each subparagraph:

"(A) EDUCATION LOANS.—Loans made for the payment of educational expenses.

Real property.

"(B) COMMUNITY DEVELOPMENT INVESTMENTS.—Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974. No investment under this subparagraph in such real property may exceed an aggregate of 2 percent of the assets of the Federal savings association.

Real property.

"(C) NONCONFORMING LOANS.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection.

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Loans—

"(i) the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate; and

"(ii) with respect to which the association—

"(I) relies substantially on the borrower's general credit standing and projected future income for repayment, without other security; or

"(II) relies on other assurances for repayment, including a guarantee or similar obligation of a third party.

The aggregate amount of such investments shall not exceed the greater of the Federal savings association's capital or 5 percent of its assets.

"(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

"(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—A Federal savings association that is in compliance with the capital standards prescribed under subsection (t) may invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings associations chartered by such State are authorized. The aggregate amount of such investments, loans, and commitments of any such Federal savings association shall not exceed one-half of 1 percent of the association's total outstanding loans or $250,000, whichever is less.

Securities.

"(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the Federal savings association's home office is located, if such corporation's entire capital stock is available for purchase only by savings associations of such State and by Federal associations having their home offices in such State. No Federal savings association may make any investment under this subparagraph if the association's aggregate outstanding investment under this subparagraph would exceed 3 percent of the association's assets. Not less than one-half of the investment permitted under this subparagraph which exceeds 1 percent of the association's assets shall be used primarily for community, inner-city, and community development purposes.

Housing.

"(C) FOREIGN ASSISTANCE INVESTMENTS.—Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guarantee under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans guaranteed under section 221 or 222 of such Act. Investments under this subparagraph shall not exceed 1 percent of the Federal savings association's assets.

"(D) SMALL BUSINESS INVESTMENT COMPANIES.—A Federal savings association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 for the purpose of aiding members of a Federal home loan bank. A Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 percent of the assets of such savings association.

"(5) DEFINITIONS.—As used in this subsection—

"(A) RESIDENTIAL PROPERTY.—The terms 'residential real property' or 'residential real estate' mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Director) and, combinations of homes or dwelling units and business property, involving only minor or incidental business use, or property to be improved by construction of such structures.

"(B) LOANS.—The term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

"(d) REGULATORY AUTHORITY.—

"(1) In general.—

"(A) Enforcement.—The Director shall have power to enforce this section, section 8 of the Federal Deposit Insurance Act, and regulations prescribed hereunder. In enforcing any provision of this section, regulations prescribed under this section, or any other law or regulation, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys. Except as otherwise provided, the Director shall be subject to suit (other than suits on claims for money damages) by any Federal savings association or director or officer thereof with respect to any matter under this section or any other applicable law, or regulation thereunder, in the United States district court for the judicial district in which the savings association's home office is located, or in the United States District Court for the District of Columbia, and the Director may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

Courts, U.S.

"(B) Ancillary provisions.—(i) In making examinations of savings associations, examiners appointed by the Director shall have power to make such examinations of the affairs of all affiliates of such savings associations as shall be necessary to disclose fully the relations between such savings associations and their affiliates and the effect of such relations upon such savings associations. For purposes of this subsection, the term 'affiliate' has the same meaning as in section 2(b) of the Banking Act of 1933, except that the term 'member bank' in section 2(b) shall be deemed to refer to a savings association.

"(ii) In the course of any examination of any savings association, upon request by the Director, prompt and complete access shall be given to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

"(iii) Upon request made in the course of supervision or oversight of any savings association, for the purpose of acting on any application or determining the condition of any savings association, including whether operations are being conducted safely, soundly, or in compliance with charters, laws, regulations, directives, written agreements, or conditions imposed in writing in connection with the granting of an application or other request, the Director shall be given prompt and complete access to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

Courts, U.S.

"(iv) If prompt and complete access upon request is not given as required in this subsection, the Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the institution is located, or in which the person denying such access resides or carries on business, for an order requiring that such information be promptly provided.

"(v) In connection with examinations of savings associations and affiliates thereof, the Director may—

"(I) administer oaths and affirmations and examine and to take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such savings association or affiliate, and

"(II) issue subpenas and, for the enforcement thereof, apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the savings association or affiliate is located, or in which the witness resides or carries on business.

Courts, U.S.

Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

"(vi) In any proceeding under this section, the Director may administer oaths and affirmations, take depositions, and issue subpenas. The Director may prescribe regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted.

Courts, U.S.

"(vii) Any party to a proceeding under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this subsection or section 10(c) of the Federal Deposit Insurance Act, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. All expenses of the Director in connection with this section shall be considered as nonadministrative expenses. Any court having jurisdiction of any proceeding instituted under this section by a savings association, or a director or officer thereof, may allow to any such party reasonable expenses and attorneys' fees. Such expenses and fees shall be paid by the savings association.

"(2) CONSERVATORSHIPS AND RECEIVERSHIPS.—

"(A) GROUNDS FOR APPOINTMENT FOR FEDERAL SAVINGS ASSOCIATIONS.—A conservator or receiver may be appointed for a Federal savings association if one or more of the following conditions exist:

"(i) insolvency in that the assets of the association are less than its obligations to its creditors and others, including its members;

"(ii) substantial dissipation of assets or earnings due to any violation or violations of law or regulations, or to any unsafe or unsound practice or practices;

"(iii) an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(iv) willful violation of a cease-and-desist order which has become final;

"(v) concealment of books, papers, records, or assets of the savings association or refusal to submit books, papers, records, or affairs of the association for inspection to any examiner or to any lawful agent of the Director;

"(vi) the association is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(vii)(I) the association has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and (II) there is no reasonable prospect for the replenishment of the capital of the association without Federal assistance; or

"(viii) there is a violation or violations of laws or regulations, or an unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the association or otherwise seriously prejudice the interests of its depositors.

"(B) ADDITIONAL GROUNDS FOR APPOINTMENT OF FEDERAL ASSOCIATIONS.—In addition to the foregoing provisions, the Director may, without any requirement of notice, hearing, or other action, appoint a conservator or receiver for a Federal savings association if—

"(i) the association, by resolution of its board of directors or of its members, consents to such appointment, or

"(ii) the association is removed from membership in any Federal home loan bank, or its status as an institution the accounts of which are insured by the Corporation is terminated.

"(C) GROUNDS FOR APPOINTMENT FOR STATE ASSOCIATIONS.—Notwithstanding any other provision of law, the Director shall have power and jurisdiction to appoint a conservator or receiver for an insured State savings association, if the Director determines that any of the following grounds for the appointment of a conservator or receiver exists:

"(i) insolvency in that the assets of the savings association are less than its obligations to its creditors and others, including its members;

"(ii) substantial dissipation of assets or earnings due to any violation or violations of law or regulations, or to any unsafe or unsound practice or practices;

"(iii) an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(iv) the association is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(v)(I) the savings association has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and (II) there is no reasonable prospect for the savings association's capital to be replenished without Federal assistance; or

"(vi) there is a violation or violations of laws or regulations, or an unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the condition of the association or otherwise seriously prejudice the interests of its depositors.

"(D) APPROVAL OF STATE OFFICIAL.—(i) The authority conferred by subparagraph (C) shall not be exercised without the written approval of the State official having jurisdiction over the insured State savings association that one or more of the grounds specified for such exercise exist.

"(ii) If such approval has not been received within 30 days of receipt of notice to the State that the Director has determined such grounds exist, and the Director has responded in writing to the State's written reasons, if any, for withholding approval, then the Director may proceed without State approval.

"(E) POWER OF APPOINTMENT; JUDICIAL REVIEW.—The Director shall have exclusive power and jurisdiction to appoint a conservator or receiver for a Federal savings association. If, in the opinion of the Director, a ground for the appointment of a conservator or receiver for a savings association exists, the Director is authorized to appoint ex parte and without notice a conservator or receiver for the savings association. In the event of such appointment, the association may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the Director to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Director to remove such conservator or receiver. Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

Courts, U.S.

"(F) REPLACEMENT.—The Director may, without any prior notice, hearing, or other action, replace a conservator with another conservator or with a receiver, but such replacement shall not affect any right which the association may have to obtain judicial review of the original appointment, except that any removal under this subparagraph shall be removal of the conservator or receiver in office at the time of such removal.

"(G) COURT ACTION.—Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver or, except at the request of the Director, to restrain or affect the exercise of powers or functions of a conservator or receiver.

"(H) POWERS.—

"(i) IN GENERAL.—A conservator shall have all the powers of the members, the stockholders, the directors, and the officers of the association and shall be authorized to operate the association in its own name or to conserve its assets in the manner and to the extent authorized by the Director.

"(ii) FDIC OR RTC AS CONSERVATOR OR RECEIVER.—Except as provided in section 21A of the Federal Home Loan Bank Act, the Director, at the Director's discretion, may appoint the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as conservator for a savings association. The Director shall appoint only the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as receiver for a savings association for the purpose of liquidation or winding up the affairs of such savings association. The conservator or receiver so appointed shall, as such, have power to buy at its own sale. The Federal Deposit Insurance Corporation, as such conservator or receiver, shall have all the powers of a conservator or receiver, as appropriate, granted under the Federal Deposit Insurance Act, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators or receivers, as appropriate, of savings associations under this Act and any other provisions of law.

"(I) DISCLOSURE REQUIREMENT FOR THOSE ACTING ON BEHALF OF CONSERVATOR.—A conservator shall require that any independent contractor, consultant, or counsel employed by the conservator in connection with the conservatorship of a savings association pursuant to this section shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the conservator.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Director may prescribe regulations for the reorganization, consolidation, liquidation, and dissolution of savings associations, for the merger of insured savings associations with insured savings associations, for savings associations in conservatorship and receivership, and for the conduct of conservatorships and receiverships. The Director may, by regulation or otherwise, provide for the exercise of functions by members, stockholders, directors, or officers of a savings association during conservatorship and receivership.

"(B) FDIC OR RTC AS CONSERVATOR OR RECEIVER.—In any case where the Federal Deposit Insurance Corporation or the Resolution Trust Corporation is the conservator or receiver, any regulations prescribed by the Director shall be consistent with any regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.

Law enforcement and crime.

"(4) REFUSAL TO COMPLY WITH DEMAND.—Whenever a conservator or receiver appointed by the Director demands possession of the property, business, and assets of any savings association, or of any part thereof, the refusal by any director, officer, employee, or agent of such association to comply with the demand shall be punishable by a fine of not more than $5,000 or imprisonment for not more than one year, or both.

"(5) DEFINITIONS.—As used in this subsection, the term 'savings association' includes any savings association or former savings association that retains deposits insured by the Corporation, notwithstanding termination of its status as an institution insured by the Corporation.

"(6) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING AND REPORT REQUIREMENTS.—

Regulations.

"(A) COMPLIANCE PROCEDURES REQUIRED.—The Director shall prescribe regulations requiring savings associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31, United States Code.

"(B) EXAMINATIONS OF SAVINGS ASSOCIATIONS TO INCLUDE REVIEW OF COMPLIANCE PROCEDURES.—

"(i) IN GENERAL.—Each examination of a savings association by the Director shall include a review of the procedures required to be established and maintained under subparagraph (A).

"(ii) EXAM REPORT REQUIREMENT.—The report of examination shall describe any problem with the procedures maintained by the association.

"(C) ORDER TO COMPLY WITH REQUIREMENTS.—If the Director determines that a savings association—

"(i) has failed to establish and maintain the procedures described in subparagraph (A); or

"(ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the Director,

the Director shall issue an order under section 8 of the Federal Deposit Insurance Act requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.

"(e) CHARACTER AND RESPONSIBILITY.—A charter may be granted only—

"(1) to persons of good character and responsibility,

"(2) if in the judgment of the Director a necessity exists for such an institution in the community to be served,

"(3) if there is a reasonable probability of its usefulness and success, and

"(4) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions.

"(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—Each Federal savings association, upon receiving its charter, shall become automatically a member of the Federal home loan bank of the district in which it is located, or if convenience requires and the Director approves, shall become a member of a Federal home loan bank of an adjoining district. Such associations shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act with respect to other members.

"(g) PREFERRED SHARES.—[Repealed.]

"(h) DISCRIMINATORY STATE AND LOCAL TAXATION PROHIBITED.—No State, county, municipal, or local taxing authority may impose any tax on Federal savings associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions.

"(i) CONVERSIONS.—

(1) In general.—Any savings association which is, or is eligible to become, a member of a Federal home loan bank may convert into a Federal savings association (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form). Such conversion shall be subject to such regulations as the Director shall prescribe. Thereafter such Federal savings association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this Act.

Regulations.

"(2) Authority of director.—(A) No savings association may convert from the mutual to the stock form, or from the stock form to the mutual form, except in accordance with the regulations of the Director.

"(B) Any aggrieved person may obtain review of a final action of the Director which approves or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of section 10(j) of this Act within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Director, whichever is later.

"(C) Any Federal savings association may change its designation from a Federal savings association to a Federal savings bank, or the reverse.

"(3) Conversion to state association.—(A) Any Federal savings association may convert itself into a savings association or savings bank organized pursuant to the laws of the State in which the principal office of such Federal savings association is located if—

"(i) the State permits the conversion of any savings association or savings bank of such State into a Federal savings association;

"(ii) such conversion of a Federal savings association into such a State savings association is determined—

"(I) upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal savings association is located, as required by such law for a State-chartered institution to convert itself into a Federal savings association, but in no event upon a vote of less than 51 percent of all the votes cast at such meeting, and

"(II) upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal savings association;

"(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof; and such notice shall be mailed, postage prepaid, at least 30 and not more than 60 days prior to the date of the meeting, to the Director and to each member or stockholder of record of the Federal savings association at the member's or stockholder's last address as shown on the books of the Federal savings association;

"(iv) when a mutual savings association is dissolved after conversion, the members or shareholders of the savings association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

"(v) when a stock savings association is dissolved after conversion, the stockholders will share on an equitable basis in the assets of the association; and

"(vi) such conversion shall be effective upon the date that all the provisions of this Act shall have been fully complied with and upon the issuance of a new charter by the State wherein the savings association is located.

"(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Director may impose under this Act.

"(ii) The savings association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Director for issuance by similar savings associations in such State.

"(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

"(4) SAVINGS BANK ACTIVITIES.—(A) To the extent authorized by the Director, but subject to section 18(m)(3) of the Federal Deposit Insurance Act—

"(i) any Federal savings bank chartered as such prior to October 15, 1982, may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to October 15, 1982; and

"(ii) any Federal savings bank in existence on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

"(B) The authority conferred by this paragraph may be utilized by any Federal savings association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfather rights hereunder.

"(j) SUBSCRIPTION FOR SHARES.—[Repealed.]

"(k) DEPOSITORY OF PUBLIC MONEY.—When designated for that purpose by the Secretary of the Treasury, a savings association the deposits of which are insured by the Corporation shall be a depository of public money and may be employed as fiscal agent of the Government under such regulations as may be prescribed by the Secretary and shall perform all such reasonable duties as fiscal agent of the Government as may be required of it. A savings association the deposits of which are insured by the Corporation may act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality, including services in connection with the collection of taxes and other

Regulations.

obligations owed the United States, and the Secretary of the Treasury may deposit public money in any such savings association, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(l) Retirement Accounts.—A Federal savings association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1986 and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code if the funds of such trust or account are invested only in savings accounts or deposits in such Federal savings association or in obligations or securities issued by such Federal savings association. All funds held in such fiduciary capacity by any Federal savings association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under this paragraph.

Records.

"(m) Branching.—

"(1) In general.—

District of Columbia.

"(A) No savings association incorporated under the laws of the District of Columbia or organized in the District or doing business in the District shall establish any branch or move its principal office or any branch without the Director's prior written approval.

"(B) No savings association shall establish any branch in the District of Columbia or move its principal office or any branch in the District without the Director's prior written approval.

"(2) Definition.—For purposes of this subsection the term 'branch' means any office, place of business, or facility, other than the principal office as defined by the Director, of a savings association at which accounts are opened or payments are received or withdrawals are made, or any other office, place of business, or facility of a savings association defined by the Director as a branch within the meaning of such sentence.

"(n) Trusts.—

"(1) Permits.—The Director may grant by special permit to a Federal savings association applying therefor the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which compete with Federal savings associations are permitted to act under the laws of the State in which the Federal savings association is located. Subject to the regulations of the Director, service corporations may invest in State or federally chartered corporations which are located in the State in which the home office of the Federal savings association is located and which are engaged in trust activities.

Securities.

"(2) Segregation of assets.—A Federal savings association exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under this subsection. The State banking authority involved may have access to reports of examination made by the Director insofar as such reports relate to the trust department of such association but nothing in this subsection shall be

Records.

construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

"(3) PROHIBITIONS.—No Federal savings association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Director.

"(4) SEPARATE LIEN.—In the event of the failure of a Federal savings association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

"(5) DEPOSITS.—Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, Federal savings associations so acting shall be required to make similar deposits. Securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Federal savings associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Federal savings associations shall have power to execute such bond when so required by the laws of the State involved.

"(6) OATHS AND AFFIDAVITS.—In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

Law enforcement and crime.

"(7) CERTAIN LOANS PROHIBITED.—It shall be unlawful for any Federal savings association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $50,000 or twice the amount of that person's gain from the loan, whichever is greater, or may be imprisoned not more than 5 years, or may be both fined and imprisoned, in the discretion of the court.

"(8) FACTORS TO BE CONSIDERED.—In reviewing applications for permission to exercise the powers enumerated in this section, the Director may consider—

"(A) the amount of capital of the applying Federal savings association,

"(B) whether or not such capital is sufficient under the circumstances of the case,

"(C) the needs of the community to be served, and

"(D) any other facts and circumstances that seem to it proper.

The Director may grant or refuse the application accordingly, except that no permit shall be issued to any association having capital less than the capital required by State law of State banks, trust companies, and corporations exercising such powers.

"(9) SURRENDER OF CHARTER.—(A) Any Federal savings association may surrender its right to exercise the powers granted under this subsection, and have returned to it any securities which it may have deposited with the State authorities, by filing with the Director a certified copy of a resolution of its board of directors indicating its intention to surrender its right.

"(B) Upon receipt of such resolution, the Director, if satisfied that such Federal savings association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, may in the Director's discretion, issue to such association a certificate that such association is no longer authorized to exercise the powers granted by this subsection.

"(C) Upon the issuance of such a certificate by the Director, such Federal savings association (i) shall no longer be subject to the provisions of this section or the regulations of the Director made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with State authorities, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

"(D) The Director may prescribe regulations necessary to enforce compliance with the provisions of this subsection.

"(10) REVOCATION.—(A) In addition to the authority conferred by other law, if, in the opinion of the Director, a Federal savings association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of 5 consecutive years to exercise, the powers granted by this subsection or otherwise fails or has failed to comply with the requirements of this subsection, the Director may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

"(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(1)(B), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than 30 days and not later than 60 days after service of such notice unless the Director sets an earlier or later date at the request of any Federal savings association so served.

"(C) Unless the Federal savings association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Director shall find that any allegation specified in the notice of charges has been established, the Director may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

"(D) A revocation order shall become effective not earlier than the expiration of 30 days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

"(o) Conversion of State Savings Banks.—(1) Subject to the provisions of this subsection and under regulations of the Director, the Director may authorize the conversion of a State-chartered savings bank that is a Bank Insurance Fund member into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, examination, and regulation of such institution.

"(2)(A) Any Federal savings bank chartered pursuant to this subsection shall continue to be a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member.

"(B) The Director shall notify the Corporation of any application under this Act for conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation before disposing of the application, and shall notify the Corporation of the Director's determination with respect to such application.

"(C) Notwithstanding any other provision of law, if the Corporation determines that conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the default of a savings bank it insures or to reopen a savings bank in default that it insured, or if the Corporation determines, with the concurrence of the Director, that severe financial conditions exist that threaten the stability of a savings bank insured by the Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Corporation shall provide the Director with a certificate of such determination, the reasons therefor in conformance with the requirements of this Act, and the bank shall be converted or chartered by the Director, pursuant to the regulations thereof, from the time the Corporation issues the certificate.

"(D) A bank may be converted under subparagraph (C) only if the board of trustees of the bank—

"(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

"(ii) has requested in writing that the Corporation use the authority of subparagraph (C).

"(E)(i) Before making a determination under subparagraph (D), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of subparagraph (D).

"(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (D) only by an affirmative vote of three-fourths of the Board of Directors. The Board of Directors shall provide the State supervisor, as soon as practicable, with a written certification of its determination.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act.

"(p) CONVERSIONS.—(1) Notwithstanding any other provision of law, and consistent with the purposes of this Act, the Director may authorize (or in the case of a Federal savings association, require) the conversion of any mutual savings association or Federal mutual savings bank that is insured by the Corporation into a Federal stock savings association or Federal stock savings bank, or charter a Federal stock savings association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the regulations of the Director.

"(2) Authorizations under this subsection may be made only—

"(A) if the Director has determined that severe financial conditions exist which threaten the stability of an association and that such authorization is likely to improve the financial condition of the association,

"(B) when the Corporation has contracted to provide assistance to such association under section 13 of the Federal Deposit Insurance Act, or

"(C) to assist an institution in receivership.

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"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter.

"(q) TYING ARRANGEMENTS.—(1) A savings association may not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

"(A) that the customer shall obtain additional credit, property, or service from such savings association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

"(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

"(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

"(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

"(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

Courts, U.S.

"(3) Any person injured by a violation of paragraph (1) may bring an action in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or in any other court of competent jurisdiction, and shall be entitled to recover three times the amount of the damages sustained, and the cost of suit, including a reasonable attorney's fee. Any such action shall be brought within 4 years from the date of the occurrence of the violation.

"(4) Nothing contained in this subsection affects in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Director under this subsection shall in any manner constitute a defense to such action.

"(5) For purposes of this subsection, the term 'loan' includes obligations and extensions or advances of credit.

"(r) Out-of-State Branches.—(1) No Federal savings association may establish, retain, or operate a branch outside the State in which the Federal savings association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986 or meets the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify. No out-of-State branch so established shall be retained or operated unless the total assets of the Federal savings association attributable to all branches of the Federal savings association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under section 7701(a)(19).

"(2) The limitations of paragraph (1) shall not apply if—

"(A) the branch results from a transaction authorized under section 13(k) of the Federal Deposit Insurance Act;

"(B) the branch was authorized for the Federal savings association prior to October 15, 1982;

"(C) the law of the State where the branch would be located would permit the branch to be established if the branch were a Federal savings association chartered by the State in which its home office is located; or

"(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

"(3) The Director, for good cause shown, may allow Federal savings associations up to 2 years to comply with the requirements of this subsection.

"(s) Minimum Capital Requirements.—

"(1) In general.—Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act), the Director shall require all savings associations to achieve and maintain adequate capital by—

"(A) establishing minimum levels of capital for savings associations; and

"(B) using such other methods as the Director determines to be appropriate.

"(2) Minimum capital levels may be determined by director case-by-case.—The Director may, consistent with subsection (t), establish the minimum level of capital for a savings association at such amount or at such ratio of capital-to-assets as the Director determines to be necessary or appropriate for such association in light of the particular circumstances of the association.

"(3) Unsafe or unsound practice.—In the Director's discretion, the Director may treat the failure of any savings association to maintain capital at or above the minimum level required by the Director under this subsection or subsection (t) as an unsafe or unsound practice.

"(4) Directive to increase capital.—

"(A) Plan may be required.—In addition to any other action authorized by law, including paragraph (3), the Director may issue a directive requiring any savings association which fails to maintain capital at or above the minimum level required by the Director to submit and adhere to a plan for increasing capital which is acceptable to the Director.

"(B) Enforcement of plan.—Any directive issued and plan approved under subparagraph (A) shall be enforceable under section 8 of the Federal Deposit Insurance Act to the same extent and in the same manner as an outstanding order which was issued under section 8 of the Federal Deposit Insurance Act and has become final.

"(5) Plan taken into account in other proceedings.—The Director may—

"(A) consider a savings association's progress in adhering to any plan required under paragraph (4) whenever such association or any affiliate of such association (including any company which controls such association) seeks the Director's approval for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such association's progress in meeting the minimum level of capital required by the Director; and

"(B) disapprove any proposal referred to in subparagraph (A) if the Director determines that the proposal would adversely affect the ability of the association to comply with such plan.

"(t) Capital Standards.—

"(1) In general.—

"(A) Requirement for standards to be prescribed.—The Director shall, by regulation, prescribe and maintain uniformly applicable capital standards for savings associations. Those standards shall include—

"(i) a leverage limit;

"(ii) a tangible capital requirement; and

"(iii) a risk-based capital requirement.

"(B) COMPLIANCE.—A savings association is not in compliance with capital standards for purposes of this subsection unless it complies with all capital standards prescribed under this paragraph.

"(C) STRINGENCY.—The standards prescribed under this paragraph shall be no less stringent than the capital standards applicable to national banks.

"(D) DEADLINE FOR REGULATIONS.—The Director shall promulgate final regulations under this paragraph not later than 90 days after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and those regulations shall become effective not later than 120 days after the date of enactment.

"(2) CONTENT OF STANDARDS.—

"(A) LEVERAGE LIMIT.—The leverage limit prescribed under paragraph (1) shall require a savings association to maintain core capital in an amount not less than 3 percent of the savings association's total assets.

"(B) TANGIBLE CAPITAL REQUIREMENT.—The tangible capital requirement prescribed under paragraph (1) shall require a savings association to maintain tangible capital in an amount not less than 1.5 percent of the savings association's total assets.

"(C) RISK-BASED CAPITAL REQUIREMENT.—Notwithstanding paragraph (1)(C), the risk-based capital requirement prescribed under paragraph (1) may deviate from the risk-based capital standards applicable to national banks to reflect interest-rate risk or other risks, but such deviations shall not, in the aggregate, result in materially lower levels of capital being required of savings associations under the risk-based capital requirement than would be required under the risk-based capital standards applicable to national banks.

"(3) TRANSITION RULE.—

"(A) CERTAIN QUALIFYING SUPERVISORY GOODWILL INCLUDED IN CALCULATING CORE CAPITAL.—Notwithstanding paragraph (9)(A), an eligible savings association may include qualifying supervisory goodwill in calculating core capital. The amount of qualifying supervisory goodwill that may be included may not exceed the applicable percentage of total assets set forth in the following table:

"For the following period:	The applicable percentage is:
Prior to January 1, 1992	1.500 percent
January 1, 1992-December 31, 1992	1.000 percent
January 1, 1993-December 31, 1993	0.750 percent
January 1, 1994-December 31, 1994	0.375 percent
Thereafter	0 percent

"(B) ELIGIBLE SAVINGS ASSOCIATIONS.—For purposes of subparagraph (A), a savings association is an eligible savings association so long as the Director determines that—

"(i) the savings association's management is competent;

"(ii) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

"(iii) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

"(4) SPECIAL RULES FOR PURCHASED MORTGAGE SERVICING RIGHTS.—

"(A) IN GENERAL.—Notwithstanding paragraphs (1)(C) and (9), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the leverage limit and risk-based capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

"(B) TANGIBLE CAPITAL REQUIREMENT.—Notwithstanding paragraphs (1)(C) and (9)(C), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the tangible capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

"(C) PERCENTAGE LIMITATION PRESCRIBED BY FDIC.—Notwithstanding paragraph (1)(C) and subparagraphs (A) and (B) of this paragraph—

"(i) for the purpose of subparagraph (A), the maximum amount of purchased mortgage servicing rights that may be included in calculating capital under the leverage limit and the risk-based capital requirement prescribed under paragraph (1) may not exceed the amount that could be included if the savings association were an insured State nonmember bank; and

"(ii) for the purpose of subparagraph (B), the Corporation shall prescribe a maximum percentage of the tangible capital requirement that savings associations may satisfy by including purchased mortgage servicing rights in calculating such capital.

"(D) QUARTERLY VALUATION.—The fair market value of purchased mortgage servicing rights shall be determined not less often than quarterly.

"(5) SEPARATE CAPITALIZATION REQUIRED FOR CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—In determining compliance with capital standards prescribed under paragraph (1), all of a savings association's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings association's capital.

"(B) EXCEPTION FOR AGENCY ACTIVITIES.—Subparagraph (A) shall not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the Corporation, in its sole discretion, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

"(C) OTHER EXCEPTIONS.—Subparagraph (A) shall not apply with respect to any of the following:

"(i) MORTGAGE BANKING SUBSIDIARIES.—A savings association's investments in and extensions of credit to a subsidiary engaged solely in mortgage-banking activities.

"(ii) SUBSIDIARY INSURED DEPOSITORY INSTITUTIONS.—A savings association's investments in and extensions of credit to a subsidiary—

"(I) that is itself an insured depository institution or a company the sole investment of which is an insured depository institution, and

"(II) that was acquired by the parent insured depository institution prior to May 1, 1989.

"(iii) CERTAIN FEDERAL SAVINGS BANKS.—Any Federal savings association existing as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(I) that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(II) that acquired its principal assets from an association that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law.

"(D) TRANSITION RULE.—

"(i) INCLUSION IN CAPITAL.—Notwithstanding subparagraph (A), if a savings association's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings association may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

"(I) the savings association's investments in and extensions of credit to the subsidiary on April 12, 1989; or

"(II) the savings association's investments in and extensions of credit to the subsidiary on the date as of which the savings association's capital is being determined.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is as follows:

"For the following period:	The applicable percentage is:
Prior to July 1, 1990	100 percent
July 1, 1990–June 30, 1991	90 percent
July 1, 1991–June 30, 1992	75 percent
July 1, 1992–June 30, 1993	60 percent
July 1, 1993–June 30, 1994	40 percent
Thereafter	0 percent

"(iii) FDIC's DISCRETION TO PRESCRIBE LESSER PERCENTAGE.—The Corporation may prescribe by order, with respect to a particular savings association, an applicable percentage less than that provided in clause (ii) if the Corporation determines, in its sole discretion, that the use of a greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the association's being in an unsafe or unsound condition.

"(E) CONSOLIDATION OF SUBSIDIARIES NOT SEPARATELY CAPITALIZED.—In determining compliance with capital standards prescribed under paragraph (1), the assets and liabilities of each of a savings association's subsidiaries (other than any subsidiary described in subparagraph (C)(ii)) shall be consolidated with the savings association's assets and liabilities, unless all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital pursuant to subparagraph (A).

"(6) CONSEQUENCES OF FAILING TO COMPLY WITH CAPITAL STANDARDS.—

"(A) PRIOR TO JANUARY 1, 1991.—Prior to January 1, 1991, the Director—

"(i) may restrict the asset growth of any savings association not in compliance with capital standards; and

"(ii) shall, beginning 60 days following the promulgation of final regulations under this subsection, require any savings association not in compliance with capital standards to submit a plan under subsection (s)(4)(A) that—

"(I) addresses the savings association's need for increased capital;

"(II) describes the manner in which the savings association will increase its capital so as to achieve compliance with capital standards;

"(III) specifies the types and levels of activities in which the savings association will engage;

"(IV) requires any increase in assets to be accompanied by an increase in tangible capital not less in percentage amount than the leverage limit then applicable;

"(V) requires any increase in assets to be accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable; and

"(VI) is acceptable to the Director.

"(B) ON OR AFTER JANUARY 1, 1991.—On or after January 1, 1991, the Director—

"(i) shall prohibit any asset growth by any savings association not in compliance with capital standards, except as provided in subparagraph (C); and

"(ii) shall require any savings association not in compliance with capital standards to comply with a capital directive issued by the Director (which may include such restrictions, including restrictions on the payment of dividends and on compensation, as the Director determines to be appropriate).

"(C) LIMITED GROWTH EXCEPTION.—The Director may permit any savings association that is subject to subparagraph (B) to increase its assets in an amount not exceeding the amount of net interest credited to the savings association's deposit liabilities if—

"(i) the savings association obtains the Director's prior approval;

"(ii) any increase in assets is accompanied by an increase in tangible capital in an amount not less than 6 percent of the increase in assets (or, in the Director's discretion if the leverage limit then applicable is less than 6 percent, in an amount equal to the increase in assets multiplied by the percentage amount of the leverage limit);

"(iii) any increase in assets is accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable;

"(iv) any increase in assets is invested in low-risk assets, such as first mortgage loans secured by 1- to 4-family residences and fully secured consumer loans; and

"(v) the savings association's ratio of core capital to total assets is not less than the ratio existing on January 1, 1991.

"(D) ADDITIONAL RESTRICTIONS IN CASE OF EXCESSIVE RISKS OR RATES.—The Director may restrict the asset growth of any savings association that the Director determines is taking excessive risks or paying excessive rates for deposits.

"(E) FAILURE TO COMPLY WITH PLAN, REGULATION, OR ORDER.—The Director shall treat as an unsafe and unsound practice any material failure by a savings association to comply with any plan, regulation, or order under this paragraph.

"(F) EFFECT ON OTHER REGULATORY AUTHORITY.—This paragraph does not limit any authority of the Director under other provisions of law.

"(7) EXEMPTION FROM CERTAIN SANCTIONS.—

"(A) APPLICATION FOR EXEMPTION.—Any savings association not in compliance with the capital standards prescribed under paragraph (1) may apply to the Director for an exemption from any applicable sanction or penalty for noncompliance which the Director may impose.

"(B) EFFECT OF GRANT OF EXEMPTION.—If the Director approves any savings association's application under subparagraph (A), the only sanction or penalty to be imposed by the Director for the savings association's failure to comply with the capital standards prescribed under paragraph (1) is the growth limitation contained in paragraph (6)(B) or paragraph (6)(C), whichever is applicable.

"(C) STANDARDS FOR APPROVAL OR DISAPPROVAL.—

"(i) APPROVAL.—The Director may approve an application for an exemption if the Director determines that—

"(I) such exemption would pose no significant risk to the affected deposit insurance fund;

"(II) the savings association's management is competent;

"(III) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

"(IV) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

"(ii) DENIAL OR REVOCATION OF APPROVAL.—The Director shall deny any application submitted under clause (i) and revoke any prior approval granted with respect to any such application if the Director determines that the association's failure to meet any capital standards prescribed under paragraph (1) is accompanied by—

"(I) a pattern of consistent losses;

"(II) substantial dissipation of assets;

"(III) evidence of imprudent management or business behavior;

"(IV) a material violation of any Federal law, any law of any State to which such association is subject, or any applicable regulation; or

"(V) any other unsafe or unsound condition or activity, other than the failure to meet such capital standards.

"(D) SUBMISSION OF PLAN REQUIRED.—Any application submitted under subparagraph (A) shall be accompanied by a plan which—

"(i) meets the requirements of paragraph (6)(A)(ii); and

"(ii) is acceptable to the Director.

"(E) FAILURE TO COMPLY WITH PLAN.—The Director shall treat as an unsafe and unsound practice any material failure by any savings association which has been granted an exemption under this paragraph to comply with the provisions of any plan submitted by such association under subparagraph (D).

"(F) EXEMPTION NOT AVAILABLE WITH RESPECT TO UNSAFE OR UNSOUND PRACTICES.—This paragraph does not limit any authority of the Director under any other provision of law, including section 8 of the Federal Deposit Insurance Act, to take any appropriate action with respect to any unsafe or unsound practice or condition of any savings association, other than the failure of such savings association to comply with the capital standards prescribed under paragraph (1).

"(8) TEMPORARY AUTHORITY TO MAKE EXCEPTIONS FOR ELIGIBLE SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(C), the Director may, by order, make exceptions to the capital standards prescribed under paragraph (1) for eligible savings associations. No exception under this paragraph shall be effective after January 1, 1991.

"(B) Standards for approval or disapproval.—In determining whether to grant an exception under subparagraph (A), the Director shall apply the same standards as apply to determinations under paragraph (7)(C).

"(9) Definitions.—For purposes of this subsection—

"(A) Core capital.—Unless the Director prescribes a more stringent definition, the term 'core capital' means core capital as defined by the Comptroller of the Currency for national banks, less any unidentifiable intangible assets, plus any purchased mortgage servicing rights excluded from the Comptroller's definition of capital but included in calculating the core capital of savings associations pursuant to paragraph (4).

"(B) Qualifying supervisory goodwill.—The term 'qualifying supervisory goodwill' means supervisory goodwill existing on April 12, 1989, amortized on a straightline basis over the shorter of—

"(i) 20 years, or

"(ii) the remaining period for amortization in effect on April 12, 1989.

"(C) Tangible capital.—The term 'tangible capital' means core capital minus any intangible assets (as intangible assets are defined by the Comptroller of the Currency for national banks).

"(D) Total assets.—The term 'total assets' means total assets (as total assets are defined by the Comptroller of the Currency for national banks) adjusted in the same manner as total assets would be adjusted in determining compliance with the leverage limit applicable to national banks if the savings association were a national bank.

"(10) Use of comptroller's definitions.—

(A) In general.—The standards prescribed under paragraph (1) shall include all relevant substantive definitions established by the Comptroller of the Currency for national banks.

"(B) Special rule.—If the Comptroller of the Currency has not made effective regulations defining core capital or establishing a risk-based capital standard, the Director shall use the definition and standard contained in the Comptroller's most recently published final regulations.

"(u) Limits on Loans to One Borrower.—

"(1) In general.—Section 5200 of the Revised Statutes shall apply to savings associations in the same manner and to the same extent as it applies to national banks.

"(2) Special rules.—

"(A) Notwithstanding paragraph (1), a savings association may make loans to one borrower under one of the following clauses:

"(i) for any purpose, not to exceed $500,000; or

"(ii) to develop domestic residential housing units, not to exceed the lesser of $30,000,000 or 30 percent of the savings association's unimpaired capital and unimpaired surplus, if—

"(I) the purchase price of each single family dwelling unit the development of which is financed under this clause does not exceed $500,000;

"(II) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under subsection (t);

"(III) the Director, by order, permits the savings association to avail itself of the higher limit provided by this clause;

"(IV) loans made under this clause to all borrowers do not, in aggregate, exceed 150 percent of the savings association's unimpaired capital and unimpaired surplus; and

"(V) such loans comply with all applicable loan-to-value requirements.

Real property.

"(B) A savings association's loans to one borrower to finance the sale of real property acquired in satisfaction of debts previously contracted in good faith shall not exceed 50 percent of the savings association's unimpaired capital and unimpaired surplus.

"(3) AUTHORITY TO IMPOSE MORE STRINGENT RESTRICTIONS.—The Director may impose more stringent restrictions on a savings association's loans to one borrower if the Director determines that such restrictions are necessary to protect the safety and soundness of the savings association.

"(v) REPORTS OF CONDITION.—

"(1) IN GENERAL.—Each association shall make reports of conditions to the Director which shall be in a form prescribed by the Director and shall contain—

"(A) information sufficient to allow the identification of potential interest rate and credit risk;

"(B) a description of any assistance being received by the association, including the type and monetary value of such assistance;

"(C) the identity of all subsidiaries and affiliates of the association;

"(D) the identity, value, type, and sector of investment of all equity investments of the associations and subsidiaries; and

"(E) other information that the Director may prescribe.

"(2) PUBLIC DISCLOSURE.—

"(A) Reports required under paragraph (1) and all information contained therein shall be available to the public upon request, unless the Director determines—

Classified information.

"(i) that a particular item or classification of information should not be made public in order to protect the safety or soundness of the institution concerned or institutions concerned, the Savings Association Insurance Fund; or

"(ii) that public disclosure would not otherwise be in the public interest.

"(B) Any determination made by the Director under subparagraph (A) not to permit the public disclosure of information shall be made in writing, and if the Director restricts any item of information for savings institutions generally, the Director shall disclose the reason in detail in the Federal Register.

"(C) The Director's determinations under subparagraph (A) shall not be subject to judicial review.

"(3) ACCESS BY CERTAIN PARTIES.—

"(A) Notwithstanding paragraph (2), the persons described in subparagraph (B) shall not be denied access to any information contained in a report of condition, subject to reasonable requirements of confidentiality. Those requirements shall not prevent such information from being transmitted to the Comptroller General of the United States for analysis.

"(B) The following persons are described in this subparagraph for purposes of subparagraph (A):

"(i) the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and their designees; and

"(ii) the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and their designees.

"(4) First tier penalties.—Any savings association which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

"(i) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The savings association shall have the burden of proving by a preponderence of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

"(5) Second tier penalties.—Any savings association which—

"(A) fails to submit or publish any report or information required by the Director under paragraph (1) or (2), within the period of time specified by the Director; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (4) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(6) Third tier penalties.—If any savings association knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (5) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(7) Assessment.—Any penalty imposed under paragraph (4), (5), or (6) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section), and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(8) HEARING.—Any savings association against which any penalty is assessed under this subsection shall be afforded a hearing if such savings association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"SEC. 6. LIQUID ASSET REQUIREMENTS.

12 USC 1465.

"(a) IN GENERAL.—The purpose of this section is to provide a means for creating effective and flexible liquidity in savings associations which can be increased when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency. More flexible liquidity will help support sound mortgage credit and a more stable supply of such credit.

"(b) MAINTENANCE OF ACCOUNT.—

"(1) IN GENERAL.—Every savings association shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Director, is appropriate:

"(A) cash;

"(B) balances maintained in a Federal reserve bank or passed through a Federal home loan bank or another depository institution to a Federal reserve bank pursuant to the Federal Reserve Act; and

"(C) to such extent as the Director may approve for the purposes of this section—

Securities.

"(i) time and savings deposits in Federal home loan banks, institutions which are, or are eligible to become, members thereof, and commercial banks;

"(ii) such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency, or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Director may approve;

"(iii) shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in subparagraph (A) and in clauses (i), (ii), (iv), (v), (vi), and (vii) of this subparagraph;

"(iv) liquid, highly rated corporate debt obligations with 3 years or less remaining until maturity;

"(v) highly rated commercial paper with 270 days or less remaining until maturity;

"(vi) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934)—

"(I) that have one year or less remaining until maturity; or

"(II) that are subject to an agreement (including a repurchase agreement, put option, right of redemption, or takeout commitment) that requires another person to purchase the securities within a period that does not exceed one year, and that person is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) that is in compliance with applicable capital standards, a primary dealer in United States Government securities, or a broker or dealer registered under the Securities Exchange Act of 1934; and

Loans.
Real property.

"(vii) mortgage loans on the security of a first lien on residential real property, if the mortgage loans qualify as backing for mortgage-backed securities issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Association or guaranteed by the Government National Mortgage Association, and either—

"(I) the mortgage loans have one year or less remaining until maturity, or

"(II) the mortgage loans are subject to an agreement (including a repurchase agreement, put option, right of redemption, or takeout commitment) that requires another person to purchase the loans within a period that does not exceed one year, and that person is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) that is in compliance with applicable capital standards, a primary dealer in United States Government securities, or a broker or dealer registered under the Securities Exchange Act of 1934.

Regulations.

"(2) LIMITATION.—The requirement prescribed by the Director pursuant to this subsection (hereafter in this section referred to as the 'liquidity requirement') may not be less than 4 percent or more than 10 percent of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less. The Director shall prescribe regulations to implement the provisions of this subsection.

"(c) CALCULATION.—The amount of any savings association's liquidity requirement, and any deficiency in compliance therewith, shall be calculated as the Director shall prescribe. The Director may prescribe different liquidity requirements, within the limitations specified herein, for different classes of savings associations, and for such purposes the Director is authorized to classify savings associations according to type, size, location, rate of withdrawals, or on such other basis or bases of differentiation as the Director may deem to be reasonably necessary or appropriate for the purposes of this section.

"(d) DEFICIENCY ASSESSMENTS.—For any deficiency in compliance with the liquidity requirements, the Director may, in the Director's discretion, assess a penalty consisting of the payment by the institution of such sum as may be assessed by the Director but not in excess of a rate equal to the highest rate on Federal home loan bank advances of one year or less, plus 2 percent per year, on the amount of the deficiency for the period with respect to which the deficiency existed. Any penalty assessed under this subsection against a savings association shall be paid to the Director. The Director may authorize or require that, at any time before collection thereof, and whether before or after the bringing of any action or other legal proceeding, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process therefor, and with or without consideration, any such penalty or recovery be compromised, remitted, or mitigated in whole or part. The penalties authorized under this subsection are in addition to all remedies and sanctions otherwise available.

"(e) REDUCTION OR SUSPENSION.—Whenever the Director deems it advisable in order to enable a savings association to meet withdrawals or to pay obligations, the Director may, to such extent and subject to such conditions as the Director may prescribe, permit the savings association to reduce its liquidity below the minimum amount. Whenever the Director determines that conditions of national emergency or unusual economic stress exist, the Director may suspend any part or all of the liquidity requirements hereunder for such period as the Director may prescribe. Any such suspension, unless sooner terminated by its terms or by the Director, shall terminate at the expiration of 90 days next after its commencement. The preceding sentence does not prevent the Director from again exercising, before, at, or after any such termination, the authority conferred by this subsection.

"(f) REGULATING AUTHORITY.—The Director is authorized to issue such regulations, including definitions of terms used in this section, to make such examinations, and to conduct such investigations as the Director deems necessary or appropriate to effectuate the purposes of this section. The reasonable cost of any such examination or investigation, as determined by the Director, shall be paid by the association.

"SEC. 7. APPLICABILITY.

Territories, U.S.
12 USC 1466.

"The provisions of this Act shall apply to the United States and to Puerto Rico, Guam, and the Virgin Islands.

"SEC. 8. DISTRICT ASSOCIATIONS.

District of Columbia.
12 USC 1466a.

"(a) IN GENERAL.—The Director shall, with respect to all incorporated or unincorporated building, building or loan, building and loan, or homestead associations, and similar institutions, of or transacting or doing business in the District of Columbia, or maintaining any office in the District of Columbia (other than Federal savings associations), have the same powers and functions as to examination, operation, and regulation as the Director has with respect to Federal savings associations.

"(b) ADDITIONAL POWERS.—Any such association or institution incorporated under the laws of, or organized in, the District of Columbia shall have in addition to any existing statutory authority such statutory authority as is vested in Federal savings associations.

"(c) CHARTER AMENDMENTS.—Charters, certificates of incorporation, articles of incorporation, constitutions, bylaws, or other organic documents of associations or institutions referred to in subsection (b) of this section may, without regard to anything contained therein or otherwise, be amended in such manner and to such extent and upon such votes if any as the Director may by regulation or otherwise provide.

"(d) LIMITATION.—Nothing in this section shall cause, or permit the Director to cause, District of Columbia associations to be or become Federal savings associations, or require the Director to impose on District of Columbia associations the same regulations as are imposed on Federal savings associations.

12 USC 1467.

"SEC. 9. EXAMINATION FEES.

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) of this Act shall be assessed by the Director against each such savings association in proportion to the assets or resources of the savings association.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of any such examination.

"(c) ASSESSMENT AGAINST ASSOCIATION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(1) IN GENERAL.—Subject to paragraph (2), if any affiliate of any savings association—

"(A) refuses to pay any assessment under subsection (b); or

"(B) fails to pay any such assessment before the end of the 60-day period beginning on the date of the assessment,

the Director may assess such cost against, and collect such cost from, such savings association.

"(2) AFFILIATE OF MORE THAN 1 SAVINGS ASSOCIATION.—If any affiliate referred to in paragraph (1) is an affiliate of more than 1 savings association, the assessment with respect to the affiliate against, and collected from, any affiliated savings association in such proportions as the Director may prescribe.

"(d) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(1) PENALTY IMPOSED.—If any affiliate of any savings association—

"(A) refuses to permit any examiner appointed by the Director to make an examination; or

"(B) refuses to provide any information required to be disclosed in the course of any examination,

the savings association shall forfeit and pay a civil penalty of not more than $5,000 for each day that any such refusal continues.

"(2) ASSESSMENT AND COLLECTION.—Any penalty imposed under paragraph (1) shall be assessed and collected by the Director, in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act.

"(e) REGULATIONS.—Only the Director may prescribe regulations with respect to—

"(1) the computation of, and the assessment for, the cost of conducting examinations pursuant to this section; and

"(2) the collection and use of such assessments and any fees under this section.

Such regulations may establish formulas to determine a fee or schedule of fees to cover the costs of examinations and also to cover the cost of processing applications, filings, notices, and requests for approvals by the Director or the Director's designee.

"(f) COLLECTION THROUGH FDIC OR FEDERAL HOME LOAN BANKS.—The Corporation or the Federal home loan banks shall, upon request of and by agreement with the Director, collect fees and assessments on behalf of the Director and be reimbursed for the actual cost of collection.

"(g) COSTS OF OTHER EXAMINATIONS.—

"(1) EXAMINATION OF FIDUCIARY ACTIVITIES.—In addition to any assessment imposed pursuant to subsection (a), the cost of conducting examinations of fiduciary activities of savings associations which exercise fiduciary powers (including savings associations or similar institutions in the District of Columbia) shall be assessed by the Director against such savings associations (or similar institutions).

"(2) EXAMINATIONS IN EXCESS OF 2 PER CALENDAR YEAR.—If any savings association or affiliate of a savings association is examined by the Director, or the Corporation, as the case may be, more than 2 times in any calendar year, the cost of conducting such additional examinations shall be assessed, in addition to any assessment imposed pursuant to subsection (a), by the Director or the Corporation, as the case may be, against such savings association or affiliate.

"(h) ADDITIONAL INFORMATION.—Any savings association and any affiliate of any savings association shall provide the Director with access to any information or report with respect to any examination made by any public regulatory authority and furnish any additional information with respect thereto as the Director may require.

"(i) TREATMENT OF EXAMINATION ASSESSMENTS.—

"(1) DEPOSITS.—Amounts received by the Director from assessments under this section (other than an assessment under subsection (d)(2)) or section 10(b)(4) may be deposited in the manner provided in section 5234 of the Revised Statutes with respect to assessments by the Comptroller of the Currency.

"(2) ASSESSMENTS ARE NOT GOVERNMENT FUNDS.—The amounts received by the Director from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

"(3) ASSESSMENTS ARE NOT SUBJECT TO APPORTIONMENT OF FUNDS.—Notwithstanding any other provision of law, the amounts received by the Director from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

"(j) PROCESSING FEE.—The Director may, in the Director's sole discretion, assess against any person that submits to the Director an application, filing, notice, or request a fee to cover the cost of processing such submission.

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, within the meaning of section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office. Such fees shall be imposed in proportion of the assets or resources of the institutions. The fees may be imposed more frequently than annually at the discretion of the Director. The annual rate of such fees shall be the same for all institutions subject to such fees.

"(l) WORKING CAPITAL.—The Director is authorized to impose fees and assessments pursuant to subsections (a), (b), (e), and (k) of this section, in excess of actual expenses for any given year, to permit the Director to maintain a working capital fund. The Director shall remit to the payors of such fees and assessments any funds collected in excess of what he deems necessary to maintain such working capital fund.

"(m) USE OF FUNDS.—The Director is authorized to use the combined resources retained through fees and assessments imposed pursuant to this section to pay all direct and indirect salary and administrative expenses of the Office, including contracts and purchases of property and services, and the direct and indirect expenses of the examinations and supervisory activities of the Office.

12 USC 1467a.

"SEC. 10. REGULATION OF HOLDING COMPANIES.

"(a) DEFINITIONS.—

"(1) IN GENERAL.—As used in this section, unless the context otherwise requires—

"(A) SAVINGS ASSOCIATION.—The term 'savings association' includes a savings bank or cooperative bank which is deemed by the Director to be a savings association under subsection (l).

"(B) UNINSURED INSTITUTION.—The term 'uninsured institution' means any depository institution the deposits of which are not insured by the Federal Deposit Insurance Corporation.

"(C) COMPANY.—The term 'company' means any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an instrumentality of the United States or any State.

"(D) SAVINGS AND LOAN HOLDING COMPANY.—The term 'savings and loan holding company' means any company which directly or indirectly controls a savings association or controls any other company which is a savings and loan holding company.

"(E) MULTIPLE SAVINGS AND LOAN HOLDING COMPANY.—The term 'multiple savings and loan holding company' means any savings and loan holding company which directly or indirectly controls 2 or more savings associations.

"(F) DIVERSIFIED SAVINGS AND LOAN HOLDING COMPANY.—The term 'diversified savings and loan holding company' means any savings and loan holding company whose subsidiary savings association and related activities as permitted under paragraph (2) of subsection (c) of this section represented, on either an actual or a pro forma basis, less than 50 percent of its consolidated net worth at the close of its preceding fiscal year and of its consolidated net earnings for such fiscal year, as determined in accordance with regulations issued by the Director.

"(G) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(H) AFFILIATE.—The term 'affiliate' of a savings association means any person which controls, is controlled by, or is under common control with, such savings association.

"(I) BANK HOLDING COMPANY.—The terms 'bank holding company' and 'bank' have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956.

"(J) ACQUIRE.—The term 'acquire' has the meaning given to such term in section 13(f)(8) of the Federal Deposit Insurance Act.

"(2) CONTROL.—For purposes of this section, a person shall be deemed to have control of—

"(A) a savings association if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares of such savings association, or controls in any manner the election of a majority of the directors of such association;

"(B) any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares or rights of such other company, or controls in any manner the election or appointment of a majority of the directors or trustees of such other company, or is a general partner in or has contributed more than 25 percent of the capital of such other company;

"(C) a trust if the person is a trustee thereof; or

"(D) a savings association or any other company if the Director determines, after reasonable notice and opportunity for hearing, that such person directly or indirectly exercises a controlling influence over the management or policies of such association or other company.

"(3) EXCLUSIONS.—Notwithstanding any other provision of this subsection, the term 'savings and loan holding company' does not include—

"(A) any company by virtue of its ownership or control of voting shares of a savings association or a savings and loan holding company acquired in connection with the underwriting of securities if such shares are held only for such period of time (not exceeding 120 days unless extended by the Director) as will permit the sale thereof on a reasonable basis; and

"(B) any trust (other than a pension, profit-sharing, shareholders', voting, or business trust) which controls a savings association or a savings and loan holding company if such trust by its terms must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, and is (i) in existence on June 26, 1967, or (ii) a testamentary trust created on or after June 26, 1967.

"(4) SPECIAL RULE RELATING TO QUALIFIED STOCK ISSUANCE.—No savings and loan holding company shall be deemed to control a savings association solely by reason of the purchase by such savings and loan holding company of shares issued by such savings association, or issued by any savings and loan holding company (other than a bank holding company) which controls such savings association, in connection with a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D), unless the acquiring savings and loan holding company, directly or indirectly, or acting in concert with 1 or more other persons, or through 1 or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 15 percent of the voting shares of such savings association or holding company.

"(b) REGISTRATION AND EXAMINATION.—

"(1) IN GENERAL.—Within 90 days after becoming a savings and loan holding company, each savings and loan holding company shall register with the Director on forms prescribed by the Director, which shall include such information, under oath or otherwise, with respect to the financial condition, ownership, operations, management, and intercompany relationships of such holding company and its subsidiaries, and related matters, as the Director may deem necessary or appropriate to carry out the purposes of this section. Upon application, the Director may extend the time within which a savings and loan holding company shall register and file the requisite information.

"(2) REPORTS.—Each savings and loan holding company and each subsidiary thereof, other than a savings association, shall file with the Director, and the regional office of the Director of the district in which its principal office is located, such reports as may be required by the Director. Such reports shall be made under oath or otherwise, and shall be in such form and for such periods, as the Director may prescribe. Each report shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Director may require.

"(3) BOOKS AND RECORDS.—Each savings and loan holding company shall maintain such books and records as may be prescribed by the Director.

"(4) EXAMINATIONS.—Each savings and loan holding company and each subsidiary thereof (other than a bank) shall be subject to such examinations as the Director may prescribe. The cost of such examinations shall be assessed against and paid by such holding company. Examination and other reports may be furnished by the Director to the appropriate State supervisory authority. The Director shall, to the extent deemed feasible, use for the purposes of this subsection reports filed with or examinations made by other Federal agencies or the appropriate State supervisory authority.

"(5) AGENT FOR SERVICE OF PROCESS.—The Director may require any savings and loan holding company, or persons connected therewith if it is not a corporation, to execute and file a prescribed form of irrevocable appointment of agent for service of process.

"(6) RELEASE FROM REGISTRATION.—The Director may at any time, upon the Director's own motion or upon application, release a registered savings and loan holding company from any registration theretofore made by such company, if the Director determines that such company no longer has control of any savings association.

"(c) HOLDING COMPANY ACTIVITIES.—

"(1) PROHIBITED ACTIVITIES.—Except as otherwise provided in this subsection, no savings and loan holding company and no subsidiary which is not a savings association shall—

"(A) engage in any activity or render any service for or on behalf of a savings association subsidiary for the purpose or with the effect of evading any law or regulation applicable to such savings association;

"(B) commence any business activity, other than the activities described in paragraph (2); or

"(C) continue any business activity, other than the activities described in paragraph (2), after the end of the 2-year period beginning on the date on which such company received approval under subsection (e) of this section to become a savings and loan holding company subject to the limitations contained in this subparagraph.

"(2) EXEMPT ACTIVITIES.—The prohibitions of subparagraphs (B) and (C) of paragraph (1) shall not apply to the following business activities of any savings and loan holding company or any subsidiary (of such company) which is not a savings association:

"(A) Furnishing or performing management services for a savings association subsidiary of such company.

"(B) Conducting an insurance agency or escrow business.

"(C) Holding, managing, or liquidating assets owned or acquired from a savings association subsidiary of such company.

"(D) Holding or managing properties used or occupied by a savings association subsidiary of such company.

"(E) Acting as trustee under deed of trust.

"(F) Any other activity—

"(i) which the Board of Governors of the Federal Reserve System, by regulation, has determined to be permissible for bank holding companies under section 4(c) of the Bank Holding Company Act of 1956, unless the Director, by regulation, prohibits or limits any such activity for savings and loan holding companies; or

"(ii) in which multiple savings and loan holding companies were authorized (by regulation) to directly engage on March 5, 1987.

"(G) In the case of a savings and loan holding company, purchasing, holding, or disposing of stock acquired in connection with a qualified stock issuance if the purchase of such stock by such savings and loan holding company is approved by the Director pursuant to subsection (q)(1)(D).

"(3) CERTAIN LIMITATIONS ON ACTIVITIES NOT APPLICABLE TO CERTAIN HOLDING COMPANIES.—Notwithstanding paragraphs (4) and (6) of this subsection, the limitations contained in subparagraphs (B) and (C) of paragraph (1) shall not apply to any savings and loan holding company (or any subsidiary of such company) which controls—

"(A) only 1 savings association, if the savings association subsidiary of such company is a qualified thrift lender (as determined under subsection (m)); or

"(B) more than 1 savings association, if—

"(i) all, or all but 1, of the savings association subsidiaries of such company were initially acquired by the company or by an individual who would be deemed to control such company if such individual were a company—

"(I) pursuant to an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act; or

"(II) pursuant to an acquisition in which assistance was continued to a savings association under section 13(i) of the Federal Deposit Insurance Act; and

"(ii) all of the savings association subsidiaries of such company are qualified thrift lenders (as determined under subsection (m)).

"(4) PRIOR APPROVAL OF CERTAIN NEW ACTIVITIES REQUIRED.—

"(A) IN GENERAL.—No savings and loan holding company and no subsidiary which is not a savings association shall commence, either de novo or by an acquisition (in whole or in part) of a going concern, any activity described in paragraph (2)(F)(i) of this subsection without the prior approval of the Director.

"(B) FACTORS TO BE CONSIDERED BY DIRECTOR.—In considering any application under subparagraph (A) by any savings and loan holding company or any subsidiary of any such company which is not a savings association, the Director shall consider—

"(i) whether the performance of the activity described in such application by the company or the subsidiary can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects of such activity (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices);

"(ii) the managerial resources of the companies involved; and

"(iii) the adequacy of the financial resources, including capital, of the companies involved.

"(C) DIRECTOR MAY DIFFERENTIATE BETWEEN NEW AND ONGOING ACTIVITIES.—In prescribing any regulation or considering any application under this paragraph, the Director may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(D) APPROVAL OR DISAPPROVAL BY ORDER.—The approval or disapproval of any application under this paragraph by the Director shall be made in an order issued by the Director containing the reasons for such approval or disapproval.

"(5) GRACE PERIOD TO ACHIEVE COMPLIANCE.—If any savings association referred to in paragraph (3) fails to maintain the status of such association as a qualified thrift lender, the Director may allow, for good cause shown, any company that controls such association (or any subsidiary of such company which is not a savings association) up to 3 years to comply with the limitations contained in paragraph (1)(C).

"(6) SPECIAL PROVISIONS RELATING TO CERTAIN COMPANIES AFFECTED BY 1987 AMENDMENTS.—

"(A) EXCEPTION TO 2-YEAR GRACE PERIOD FOR ACHIEVING COMPLIANCE.—Notwithstanding paragraph (1)(C), any company which received approval under subsection (e) of this section to acquire control of a savings association between March 5, 1987, and August 10, 1987, shall not continue any business activity other than an activity described in paragraph (2) after August 10, 1987.

"(B) Exemption for activities lawfully engaged in before march 5, 1987.—Notwithstanding paragraph (1)(C) and subject to subparagraphs (C) and (D), any savings and loan holding company which received approval, before March 5, 1987, under subsection (e) of this section to acquire control of a savings association may engage, directly or through any subsidiary (other than a savings association subsidiary of such company), in any activity in which such company or such subsidiary was lawfully engaged on such date.

"(C) Termination of subparagraph (b) exemption.—The exemption provided under subparagraph (B) for activities engaged in by any savings and loan holding company or a subsidiary of such company (which is not a savings association) which would otherwise be prohibited under paragraph (1)(C) shall terminate with respect to such activities of such company or subsidiary upon the occurrence (after August 10, 1987) of any of the following:

"(i) The savings and loan holding company acquires control of a bank or an additional savings association (other than a savings association acquired pursuant to section 13(c) or 13(k) of the Federal Deposit Insurance Act or section 406(f) or 408(m) of the National Housing Act).

"(ii) Any savings association subsidiary of the savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986.

"(iii) The savings and loan holding company engages in any business activity—

"(I) which is not described in paragraph (2); and

"(II) in which it was not engaged on March 5, 1987.

"(iv) Any savings association subsidiary of the savings and loan holding company increases the number of locations from which such savings association conducts business after March 5, 1987 (other than an increase which occurs in connection with a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act.

"(v) Any savings association subsidiary of the savings and loan holding company permits any overdraft (including an intraday overdraft), or incurs any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft is the result of an inadvertent computer or accounting error that is beyond the control of both the savings association subsidiary and the affiliate.

"(D) Order by Director to terminate subparagraph (b) activity.—Any activity described in subparagraph (B) may also be terminated by the Director, after opportunity for hearing, if the Director determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interest or unsound practices or is in the public interest.

"(7) Foreign savings and loan holding company.—Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not a savings association), which controls a single savings association on August 10, 1987, shall not be subject to this subsection with respect to any activities of such holding company which are conducted exclusively in a foreign country.

"(8) EXEMPTION FOR BANK HOLDING COMPANIES.—Except for paragraph (1)(A), this subsection shall not apply to any company that is treated as a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956, or any of its subsidiaries.

"(d) TRANSACTIONS WITH AFFILIATES.—Transactions between any subsidiary savings association of a savings and loan holding company and any affiliate (of such savings association subsidiary) shall be subject to the limitations and prohibitions specified in section 11 of this Act.

"(e) ACQUISITIONS.—

"(1) IN GENERAL.—It shall be unlawful for—

"(A) any savings and loan holding company directly or indirectly, or through one or more subsidiaries or through one or more transactions—

"(i) to acquire, except with the prior written approval of the Director, the control of a savings association or a savings and loan holding company, or to retain the control of such an association or holding company acquired or retained in violation of this section as heretofore or hereafter in effect;

"(ii) to acquire, except with the prior written approval of the Director, by the process of merger, consolidation, or purchase of assets, another savings association or a savings and loan holding company, or all or substantially all of the assets of any such association or holding company;

"(iii) to acquire, by purchase or otherwise, or to retain more than 5 percent of the voting shares of a savings association not a subsidiary, or of a savings and loan holding company not a subsidiary, or in the case of a multiple savings and loan holding company (other than a company described in subsection (c)(8)), to so acquire or retain more than 5 percent of the voting shares of any company not a subsidiary which is engaged in any business activity other than the activities specified in subsection (c)(2). This clause shall not apply to shares of a savings association or of a savings and loan holding company—

"(I) held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

"(II) held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(III) held in an account solely for trading purposes;

"(IV) over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

"(V) acquired in securing or collecting a debt previously contracted in good faith, during the 2-

year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Director may permit if the Director determines that such an extension will not be detrimental to the public interest;

"(VI) acquired under section 408(m) of the National Housing Act or section 13(k) of the Federal Deposit Insurance Act;

"(VII) held by any insurance company, as defined in section 2(a)(17) of the Investment Company Act of 1940, except as provided in paragraph (6);

"(VIII) acquired pursuant to a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D);

except that the aggregate amount of shares held under this clause (other than under subclauses (I), (II), (III), (IV), and (VI)) may not exceed 15 percent of all outstanding shares or of the voting power of a savings association or savings and loan holding company; or

"(iv) to acquire the control of an uninsured institution, or to retain for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Director may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Director finds such extension is warranted and is not detrimental to the public interest;

"(B) any other company, without the prior written approval of the Director, directly or indirectly, or through one or more subsidiaries or through one or more transactions, to acquire the control of one or more savings associations, except that such approval shall not be required in connection with the control of a savings association, (i) acquired by devise under the terms of a will creating a trust which is excluded from the definition of 'savings and loan holding company' under subsection (a) of this section, or (ii) acquired in connection with a reorganization in which a person or group of persons, having had control of a savings association for more than 3 years, vests control of that association in a newly formed holding company subject to the control of the same person or group of persons. The Director shall approve an acquisition of a savings association under this subparagraph unless the Director finds the financial and managerial resources and future prospects of the company and association involved to be such that the acquisition would be detrimental to the association or the insurance risk of the Savings Association Insurance Fund or Bank Insurance Fund, and shall render a decision within 90 days after submission to the Director of the complete record on the application.

"(2) Factors to be considered.—The Director shall not approve any acquisition under subparagraph (A)(i) or (A)(ii), or of more than one savings association under subparagraph (B) of paragraph (1) of this subsection, any acquisition of stock in connection with a qualified stock issuance, any acquisition under paragraph (4)(A), or any transaction under section 13(k) of the Federal Deposit Insurance Act, except in accordance with this paragraph. In every case, the Director shall take into consideration the financial and managerial resources and future prospects of the company and association involved, the effect of the acquisition on the association, the insurance risk to the Savings Association Insurance Fund or the Bank Insurance Fund, and the convenience and needs of the community to be served, and shall render a decision within 90 days after submission to the Director of the complete record on the application. Before approving any such acquisition, except a transaction under section 13(k) of the Federal Deposit Insurance Act, the Director shall request from the Attorney General and consider any report rendered within 30 days on the competitive factors involved. The Director shall not approve any proposed acquisition—

"(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States, or

"(B) the effect of which in any section of the country may be substantially to lessen competition, or tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

"(3) INTERSTATE ACQUISITIONS.—No acquisition shall be approved by the Director under this subsection which will result in the formation by any company, through one or more subsidiaries or through one or more transactions, of a multiple savings and loan holding company controlling savings associations in more than one State, unless—

"(A) such company, or a savings association subsidiary of such company, is authorized to acquire control of a savings association subsidiary, or to operate a home or branch office, in the additional State or States pursuant to section 13(k) of the Federal Deposit Insurance Act;

"(B) such company controls a savings association subsidiary which operated a home or branch office in the additional State or States as of March 5, 1987; or

"(C) the statutes of the State in which the savings association to be acquired is located permit a savings association chartered by such State to be acquired by a savings association chartered by the State where the acquiring savings association or savings and loan holding company is located or by a holding company that controls such a State chartered savings association, and such statutes specifically authorize such an acquisition by language to that effect and not merely by implication.

"(4) ACQUISITIONS BY CERTAIN INDIVIDUALS.—

"(A) IN GENERAL.—Notwithstanding subsection (h)(2), any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, may acquire control of any savings association not a subsidiary of such savings and loan holding company with the prior written approval of the Director.

"(B) TREATMENT OF CERTAIN HOLDING COMPANIES.—If any individual referred to in subparagraph (A) controls more than 1 savings and loan holding company or more than 1 savings association, any savings and loan holding company controlled by such individual shall be subject to the activities limitations contained in subsection (c) to the same extent such limitations apply to multiple savings and loan holding companies, unless all or all but 1 of the savings associations (including any institution deemed to be a savings association under subsection (l) of this section) controlled directly or indirectly by such individual was acquired pursuant to an acquisition described in subclause (I) or (II) of subsection (c)(3)(B)(i).

"(5) ACQUISITIONS PURSUANT TO CERTAIN SECURITY INTERESTS.—This subsection and subsection (c)(2) of this section do not apply to any savings and loan holding company which acquired the control of a savings association or of a savings and loan holding company pursuant to a pledge or hypothecation to secure a loan, or in connection with the liquidation of a loan, made in the ordinary course of business. It shall be unlawful for any such company to retain such control for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Director may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Director finds such extension is warranted and would not be detrimental to the public interest.

"(6) SHARES HELD BY INSURANCE AFFILIATES.—Shares described in clause (iii)(VII) of paragraph (1)(A) shall not be excluded for purposes of clause (iii) of such paragraph if—

"(A) all shares held under such clause (iii)(VII) by all insurance company affiliates of such savings association or savings and loan holding company in the aggregate exceed 5 percent of all outstanding shares or of the voting power of the savings association or savings and loan holding company; or

"(B) such shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company.

"(f) DECLARATION OF DIVIDEND.—Every subsidiary savings association of a savings and loan holding company shall give the Director not less than 30 days' advance notice of the proposed declaration by its directors of any dividend on its guaranty, permanent, or other nonwithdrawable stock. Such notice period shall commence to run from the date of receipt of such notice by the Director. Any such dividend declared within such period, or without the giving of such notice to the Director, shall be invalid and shall confer no rights or benefits upon the holder of any such stock.

"(g) ADMINISTRATION AND ENFORCEMENT.—

"(1) IN GENERAL.—The Director is authorized to issue such regulations and orders as the Director deems necessary or appropriate to enable the Director to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof.

"(2) INVESTIGATIONS.—The Director may make such investigations as the Director deems necessary or appropriate to determine whether the provisions of this section, and regulations and orders thereunder, are being and have been complied with by savings and loan holding companies and subsidiaries and affiliates thereof. For the purpose of any investigation under this section, the Director may administer oaths and affirmations, issue subpenas, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which may be relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in any State. The Director may apply to the United States district court for the judicial district (or the United States court in any territory) in which any witness or company subpenaed resides or carries on business, for enforcement of any subpena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance.

Records.

"(3) PROCEEDINGS.—(A) In any proceeding under subsection (a)(2)(D) or under paragraph (5) of this section, the Director may administer oaths and affirmations, take or cause to be taken depositions, and issue subpenas. The Director may make regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to such proceedings may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

District of Columbia.

"(B) Any hearing provided for in subsection (a)(2)(D) or under paragraph (5) of this section shall be held in the Federal judicial district or in the territory in which the principal office of the association or other company is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

"(4) INJUNCTIONS.—Whenever it appears to the Director that any person is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this section or of any regulation or order thereunder, the Director may bring an action in the proper United States district court, or the United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce compliance with this section or any regulation or order, or to require the divestiture of any acquisition in violation of this section, or for any combination of the foregoing, and such courts shall have jurisdiction of such actions. Upon a proper showing an injunction, decree, restraining order, order of divestiture, or other appropriate order shall be granted without bond.

"(5) Cease and desist orders.—(A) Notwithstanding any other provision of this section, the Director may, whenever the Director has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association and is inconsistent with the sound operation of a savings association or with the purposes of this section or section 8 of the Federal Deposit Insurance Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within 120 days or such longer period as the Director directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(B) The Director may in the Director's discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith. Except as provided in subsection (j), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

"(h) Prohibited Acts.—It shall be unlawful for—

"(1) any savings and loan holding company or subsidiary thereof, or any director, officer, employee, or person owning, controlling, or holding with power to vote, or holding proxies representing, more than 25 percent of the voting shares, of such holding company or subsidiary, to hold, solicit, or exercise any proxies in respect of any voting rights in a savings association which is a mutual association;

"(2) any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, to acquire control of any savings association not a subsidiary of such savings and loan holding company, unless such acquisition is approved by the Director pursuant to subsection (e)(4); or

"(3) any individual, except with the prior approval of the Director, to serve or act as a director, officer, or trustee of, or become a partner in, any savings and loan holding company after having been convicted of any criminal offense involving dishonesty or breach of trust.

"(i) Penalties.—

"(1) Criminal penalties.—(A) Whoever knowingly violates any provision of this section, and any company which violates any regulation or order issued by the Director pursuant thereto, shall be fined not more than $100,000 per day for each day during which the violation continues.

"(B) Any individual who knowingly violates any provision of this section shall be fined not more than $100,000 per day for each day during which the violation continues, imprisoned not more than 1 year, or both.

"(C) Whoever knowingly violates any provision of this section with intent to deceive, to defraud, or to profit significantly shall be fined not more than $1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.

"(2) FALSE ENTRIES.—Every director, officer, partner, trustee, agent, or employee of a savings and loan holding company shall be subject to the same penalties for false entries in any book, report, or statement of such savings and loan holding company as are applicable to officers, agents, and employees of a savings association the accounts of which are insured by the Corporation for false entries in any books, reports, or statements of such association under section 1006 of title 18, United States Code.

"(3) CIVIL MONEY PENALTY.—

"(A) PENALTY.—Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(B) ASSESSMENT.—Any penalty imposed under subparagraph (A) may be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(C) HEARING.—The company or other person against whom any civil penalty is assessed under this paragraph shall be afforded a hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

"(D) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(E) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(F) REGULATIONS.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

"(4) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after the date of the enactment of this paragraph).

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"(j) Judicial Review.—Any party aggrieved by an order of the Director under this section may obtain a review of such order by filing in the court of appeals of the United States for the circuit in which the principal office of such party is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28, United States Code.

"(k) Savings Clause.—Nothing contained in this section, other than any transaction approved under subsection (e)(2) of this section or section 13 of the Federal Deposit Insurance Act, shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any act, action, or conduct in violation of the antitrust laws.

"(l) Treatment of FDIC Insured State Savings Banks and Cooperative Banks as Savings Associations.—

"(1) In general.—Notwithstanding any other provision of law, a savings bank (as defined in section 3(g) of the Federal Deposit Insurance Act) and a cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) upon application shall be deemed to be a savings association for the purpose of this section, if the Director determines that such bank is a qualified thrift lender (as determined under subsection (m)).

"(2) Failure to maintain qualified thrift lender status.—If any savings bank which is deemed to be a savings association under paragraph (1) subsequently fails to maintain its status as a qualified thrift lender, as determined by the Director, such bank may not thereafter be a qualified thrift lender for a period of 5 years.

"(m) Qualified Thrift Lender Test.—

"(1) In general.—Except as provided in paragraphs (2) and (6), any savings association shall have the status of a qualified thrift lender if—

"(A) the qualified thrift investments of such savings association equal or exceed 60 percent of the total tangible assets of such association; and

"(B) the qualified thrift investments of such savings association continue to equal or exceed 60 percent of the total tangible assets of such association on an average basis in 3 out of every 4 quarters and 2 out of every 3 years.

"(2) EXCEPTIONS GRANTED BY DIRECTOR.—Notwithstanding paragraph (1), the Director may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Director deems necessary if—

"(A) the Director determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

"(B) the Director determines that—

"(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act;

"(ii) the acquired association will comply with the transition requirements of paragraph (6)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

"(iii) the Director determines that the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

"(3) FAILURE TO BECOME AND REMAIN A QUALIFIED THRIFT LENDER.—

"(A) IN GENERAL.—Except as provided in subparagraph (D), a savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank), or be subject to subparagraph (B).

"(B) RESTRICTIONS APPLICABLE TO SAVINGS ASSOCIATIONS THAT ARE NOT QUALIFIED THRIFT LENDERS.—

"(i) RESTRICTIONS EFFECTIVE IMMEDIATELY.—The following restrictions shall apply immediately to a savings association after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) BRANCHING.—The savings association shall not establish any new branch office at any location at which a national bank located in the savings association's home State may not establish a branch office. For purposes of this subclause, a savings association's home State is the State in which the savings association's total deposits were largest on the date on which the savings association should have become or ceased to be a qualified thrift lender.

"(III) ADVANCES.—The savings association shall not be eligible to obtain new advances from any Federal home loan bank.

"(IV) DIVIDENDS.—The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank.

"(ii) ADDITIONAL RESTRICTIONS EFFECTIVE AFTER THREE YEARS.—The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association.

"(C) HOLDING COMPANY REGULATION.—Any company that controls a savings association that is subject to any provision of subparagraph (B) shall, within one year after the date on which the savings association should have become or ceases to be a qualified thrift lender, register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956, section 8 of the Federal Deposit Insurance Act, and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the savings association were a bank, as those terms are defined in the Bank Holding Company Act of 1956.

"(D) REQUALIFICATION.—A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) or (C) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) on an average basis in 3 out of every 4 quarters and 2 out of every 3 years and thereafter remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) and (C) as if all the periods described in subparagraphs (B)(ii) and (C) had expired.

"(E) DEPOSIT INSURANCE ASSESSMENTS.—Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings

Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

"(i) December 31, 1993, or

"(ii) the institution's change of status from a Savings Association Insurance fund member to a Bank Insurance Fund member,

whichever is later.

"(F) SPECIAL RULE.—This paragraph shall not apply to savings associations headquartered and operating primarily in Puerto Rico or the Virgin Islands.

"(G) EXEMPTION FOR CERTAIN FEDERAL SAVINGS ASSOCIATIONS.—This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform Recovery, and Enforcement Act of 1989—

"(i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law.

"(H) NO CIRCUMVENTION OF EXIT MORATORIUM.—Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act.

"(I) EFFECTIVE DATE.—This paragraph shall take effect upon the expiration of 1 year after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of the qualified thrift investments of a savings association, by

"(ii) the total amount of tangible assets of such savings association.

"(B) QUALIFIED THRIFT INVESTMENTS.—The term 'qualified thrift investments' means, with respect to any savings association, the sum of—

"(i) the aggregate amount of loans, equity positions, or securities held by the savings association (or any subsidiary of such association) which are related to domestic residential real estate or manufactured housing;

"(ii) the value of property used by such association or subsidiary in the conduct of the business of such association or subsidiary;

"(iii) subject to paragraph (5), the liquid assets of the type required to be maintained under this Act; and

"(iv) subject to paragraph (5), 50 percent of the dollar amount of the residential mortgage loans originated by such savings association or subsidiary and sold within 90 days of origination.

"(5) LIMITATION ON TREATMENT OF CERTAIN ASSETS AS THRIFT INVESTMENTS.—The aggregate amount of the assets described in clauses (iii) and (iv) of paragraph (4)(B) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 10 percent of the tangible assets of such association.

"(6) TRANSITIONAL RULE FOR CERTAIN SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—If any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during the 6-year period beginning on August 10, 1989.

"(B) SUBPARAGRAPH (B) REQUIREMENTS.—A savings association meets the requirements of this subparagraph if, in the determination of the Director—

"(i) the actual thrift investment percentage of such association does not, after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on such date of enactment:

"For the following period:	The applicable percentage is:
Prior to July 1, 1991	25 percent
July 1, 1991–December 31, 1992	50 percent
January 1, 1993–June 30, 1994	75 percent
Thereafter	100 percent

"(C) For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of 'actual thrift investment percentage' that takes effect on July 1, 1991.

"(n) TYING RESTRICTIONS.—A savings and loan holding company and any of its affiliates shall be subject to section 5(q) and regulations prescribed under such section, in connection with transactions involving the products or services of such company or affiliate and those of an affiliated savings association as if such company or affiliate were a savings association.

"(o) MUTUAL HOLDING COMPANIES.—

"(1) IN GENERAL.—A savings association operating in mutual form may reorganize so as to become a holding company by—

"(A) chartering an interim savings association, the stock of which is to be wholly owned, except as otherwise provided in this section, by the mutual association; and

"(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings association.

"(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

"(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the mutual savings association; and

"(B) in the case of an association in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the association's charter and bylaws.

"(3) NOTICE TO THE DIRECTOR; DISAPPROVAL PERIOD.—

"(A) NOTICE REQUIRED.—At least 60 days prior to taking any action described in paragraph (1), a savings association seeking to establish a mutual holding company shall provide written notice to the Director. The notice shall contain such relevant information as the Director shall require by regulation or by specific request in connection with any particular notice.

"(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Director within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the savings association providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

"(C) GROUNDS FOR DISAPPROVAL.—The Director may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the savings association involved warrant disapproval;

"(iii) the savings association fails to furnish the information required under subparagraph (A); or

"(iv) the savings association fails to comply with the requirement of paragraph (2).

"(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), a savings association may, subject to the approval of the Director, retain capital assets at the holding company level to the extent that such capital exceeds the association's capital requirement established by the Director pursuant to sections 5 (s) and (t) of this Act.

"(4) OWNERSHIP.—

"(A) IN GENERAL.—Persons having ownership rights in the mutual association pursuant to section 5(b)(1)(B) of this Act or State law shall have the same ownership rights with respect to the mutual holding company.

"(B) HOLDERS OF CERTAIN ACCOUNTS.—Holders of savings, demand or other accounts of—

"(i) a savings association chartered as part of a transaction described in paragraph (1); or

"(ii) a mutual savings association acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

"(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

"(A) Investing in the stock of a savings association.

"(B) Acquiring a mutual association through the merger of such association into a savings association subsidiary of such holding company or an interim savings association subsidiary of such holding company.

"(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a savings association.

"(D) Investing in a corporation the capital stock of which is available for purchase by a savings association under Federal law or under the law of any State where the subsidiary savings association or associations have their home offices.

"(E) Engaging in the activities described in subsection (c)(2), except subparagraph (B).

"(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

"(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

"(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

"(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

"(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

"(7) REGULATION.—A mutual holding company shall be chartered by the Director and shall be subject to such regulations as the Director may prescribe. Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this section regarding regulation of holding companies.

"(8) CAPITAL IMPROVEMENT.—

"(A) PLEDGE OF STOCK OF SAVINGS ASSOCIATION SUBSIDIARY.—This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a savings association chartered as part of a transaction described in paragraph (1) to raise capital for such savings association.

"(B) ISSUANCE OF NONVOTING SHARES.—This section shall not prohibit a savings association chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such association to any person other than the mutual holding company.

"(9) INSOLVENCY AND LIQUIDATION.—

"(A) IN GENERAL.—Notwithstanding any provision of law, upon—

"(i) the default of any savings association—

"(I) the stock of which is owned by any mutual holding company; and

"(II) which was chartered in a transaction described in paragraph (1);

"(ii) the default of a mutual holding company; or

"(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11, United States Code.

"(B) DISTRIBUTION OF NET PROCEEDS.—Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

"(C) RECOVERY BY CORPORATION.—If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

"(B) MUTUAL ASSOCIATION.—The term 'mutual association' means a savings association which is operating in mutual form.

"(C) DEFAULT.—The term 'default' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

"(p) HOLDING COMPANY ACTIVITIES CONSTITUTING SERIOUS RISK TO SUBSIDIARY SAVINGS ASSOCIATION.—

"(1) DETERMINATION AND IMPOSITION OF RESTRICTIONS.—If the Director determines that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association, the Director may impose such restrictions as the Director determines to be necessary to address such risk. Such restrictions shall be issued in the form of a directive to the holding company and any of its subsidiaries, limiting—

"(A) the payment of dividends by the savings association;

"(B) transactions between the savings association, the holding company, and the subsidiaries or affiliates of either; and

"(C) any activities of the savings association that might create a serious risk that the liabilities of the holding company and its other affiliates may be imposed on the savings association.

Such directive shall be effective as a cease and desist order that has become final.

"(2) REVIEW OF DIRECTIVE.—

"(A) ADMINISTRATIVE REVIEW.—After a directive referred to in paragraph (1) is issued, the savings and loan holding company, or any subsidiary of such holding company subject to the directive, may object and present in writing its reasons why the directive should be modified or rescinded. Unless within 10 days after receipt of such response the Director affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

District of Columbia.

"(B) JUDICIAL REVIEW.—If the Director affirms or modifies a directive pursuant to subparagraph (A), any affected party may immediately thereafter petition the United States district court for the district in which the savings and loan holding company has its main office or in the United States District Court for the District of Columbia to stay, modify, terminate or set aside the directive. Upon a showing of extraordinary cause, the savings and loan holding company, or any subsidiary of such holding company subject to a directive, may petition a United States district court for relief without first pursuing or exhausting the administrative remedies set forth in this paragraph.

"(q) QUALIFIED STOCK ISSUANCE BY UNDERCAPITALIZED SAVINGS ASSOCIATIONS OR HOLDING COMPANIES.—

"(1) IN GENERAL.—For purposes of this section, any issue of shares of stock shall be treated as a qualified stock issuance if the following conditions are met:

"(A) The shares of stock are issued by—

"(i) an undercapitalized savings association; or

"(ii) a savings and loan holding company which is not a bank holding company but which controls an undercapitalized savings association if, at the time of issuance, the savings and loan holding company is legally obligated to contribute the net proceeds from the issuance of such stock to the capital of an undercapitalized savings association subsidiary of such holding company.

"(B) All shares of stock issued consist of previously unissued stock or treasury shares.

"(C) All shares of stock issued are purchased by a savings and loan holding company that is registered, as of the date of purchase, with the Director in accordance with the provisions of subsection (b)(1) of this section.

"(D) Subject to paragraph (2), the Director approved the purchase of the shares of stock by the acquiring savings and loan holding company.

"(E) The entire consideration for the stock issued is paid in cash by the acquiring savings and loan holding company.

"(F) At the time of the stock issuance, each savings association subsidiary of the acquiring savings and loan holding company (other than an association acquired in a transaction pursuant to subsection (c) or (k) of section 13 of the Federal Deposit Insurance Act or section 408(m) of the National Housing Act) has capital (after deducting any subordinated debt, intangible assets, and deferred, unamortized gains or losses) of not less than 6½ percent of the total assets of such savings association.

"(G) Immediately after the stock issuance, the acquiring savings and loan holding company holds not more than 15 percent of the outstanding voting stock of the issuing undercapitalized savings association or savings and loan holding company.

"(H) Not more than one of the directors of the issuing association or company is an officer, director, employee, or other representative of the acquiring company or any of its affiliates.

"(I) Transactions between the savings association or savings and loan holding company that issues the shares pursuant to this section and the acquiring company and any of its affiliates shall be subject to the provisions of section 11.

"(2) APPROVAL OF ACQUISITIONS.—

"(A) ADDITIONAL CAPITAL COMMITMENTS NOT REQUIRED.—The Director shall not disapprove any application for the purchase of stock in connection with a qualified stock issuance on the grounds that the acquiring savings and loan holding company has failed to undertake to make subsequent additional capital contributions to maintain the capital of the undercapitalized savings association at or above the minimum level required by the Director or any other Federal agency having jurisdiction.

"(B) OTHER CONDITIONS.—Notwithstanding subsection (a)(4), the Director may impose such conditions on any approval of an application for the purchase of stock in connection with a qualified stock issuance as the Director determines to be appropriate, including—

"(i) a requirement that any savings association subsidiary of the acquiring savings and loan holding company limit dividends paid to such holding company for such period of time as the Director may require; and

"(ii) such other conditions as the Director deems necessary or appropriate to prevent evasions of this section.

"(C) APPLICATION DEEMED APPROVED IF NOT DISAPPROVED WITHIN 90 DAYS.—An application for approval of a purchase of stock in connection with a qualified stock issuance shall be deemed to have been approved by the Director if such application has not been disapproved by the Director before the end of the 90-day period beginning on the date such application has been deemed sufficient under regulations issued by the Director.

"(3) NO LIMITATION ON CLASS OF STOCK ISSUED.—The shares of stock issued in connection with a qualified stock issuance may be shares of any class.

"(4) UNDERCAPITALIZED SAVINGS ASSOCIATION DEFINED.—For purposes of this subsection, the term 'undercapitalized savings association' means any savings association—

"(A) the assets of which exceed the liabilities of such association; and

"(B) which does not comply with one or more of the capital standards in effect under section 5(t).

"(r) PENALTY FOR FAILURE TO PROVIDE TIMELY AND ACCURATE REPORTS.—

"(1) FIRST TIER.—Any savings and loan holding company, and any subsidiary of such holding company, which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

"(i) fails to submit or publish any report or information required under this section or regulations prescribed by the Director, within the period of time specified by the Director; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such holding company or subsidiary shall have the burden of proving by a preponderence of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any savings and loan holding company, and any subsidiary of such holding company, which—

"(A) fails to submit or publish any report or information required under this section or under regulations prescribed by the Director, within the period of time specified by the Director; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—If any savings and loan holding company or any subsidiary of such a holding company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Director may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company or subsidiary, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any savings and loan holding company or any subsidiary of such a holding company against which any penalty is assessed under this subsection shall be afforded a hearing if such savings and loan holding company or such subsidiary, as the case may be, submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

12 USC 1468.

"SEC. 11. TRANSACTIONS WITH AFFILIATES; EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.

"(a) AFFILIATE TRANSACTIONS.—

"(1) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act), except that—

"(A) no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 10(c)(2)(F)(i); and

"(B) no savings association may enter into any transaction described in section 23A(b)(7)(B) of the Federal Reserve Act with any affiliate other than with respect to shares of a subsidiary.

"(2) SISTER BANK EXEMPTION MADE AVAILABLE TO SAVINGS ASSOCIATIONS.—

"(A) SAVINGS ASSOCIATIONS CONTROLLED BY BANK HOLDING COMPANIES.—Every savings association more than 80 percent of the voting stock of which is owned by a company described in section 10(c)(8) shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act, if every savings association and bank controlled by such company complies with all applicable capital requirements on a fully phased-in basis and without reliance on goodwill.

"(B) SAVINGS ASSOCIATIONS GENERALLY.—Effective on and after January 1, 1995, every savings association shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

"(3) AFFILIATES DESCRIBED.—Any company that would be an affiliate (as defined in sections 23A and 23B of the Federal Reserve Act) of any savings association if such savings association were a member bank (as such term is defined in such Act) shall be deemed to be an affiliate of such savings association for purposes of paragraph (1).

"(4) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Director may impose such additional restrictions on any transaction between any savings association and any affiliate of such savings association as the Director determines to be necessary to protect the safety and soundness of the savings association.

"(b) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—

"(1) IN GENERAL.—Section 22(h) of the Federal Reserve Act shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act).

"(2) ADDITIONAL RESTRICTIONS AUTHORIZED.—The Director may impose such additional restrictions on loans or extensions of credit to any director or executive officer of any savings association, or any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a savings association, as the Director determines to be necessary to protect the safety and soundness of the savings association.

"(c) ADMINISTRATIVE ENFORCEMENT.—The Director may take enforcement action with respect to violations of this section pursuant to section 8 or 18(j) of the Federal Deposit Insurance Act, as appropriate.

"SEC. 12. ADVERTISING.

12 USC 1468a.

"No savings association shall carry on any sale, plan, or practices, or any advertising, in violation of regulations promulgated by the Director.

"SEC. 13. POWERS OF EXAMINERS.

12 USC 1468b.

"For the purposes of this Act, examiners appointed by the Director shall—

"(1) be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the Federal Reserve Act and title LXII of the Revised Statutes; and

"(2) have, in the exercise of functions under this Act, the same powers and privileges as are vested in such examiners by law.

"SEC. 14. SEPARABILITY PROVISION.

12 USC 1468c.

"If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.".

SEC. 302. SAVINGS PROVISIONS.

12 USC 1467a note.

Notwithstanding the amendment made by this title to section 10 of the Home Owners' Loan Act and the repeal of section 416 of the National Housing Act—

(1) any plan approved by the Federal Home Loan Bank Board under such section 10 for any Federal savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Director of the Office of Thrift Supervision regular and complete reports on the association's progress in meeting the association's goals under the plan; and

(2) any plan approved by the Federal Savings and Loan Insurance Corporation under such section 416 for any State savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Federal Deposit Insurance Corporation regular and complete reports on the association's progress in meeting the savings association's goals under the plan.

SEC. 303. QUALIFIED THRIFT LENDER TEST.

12 USC 1467a.

(a) IN GENERAL.—Section 10(m) of the Home Owners' Loan Act is amended to read as follows:

"(m) QUALIFIED THRIFT LENDER TEST.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (7), any savings association is a qualified thrift lender if—

"(A) the savings association's qualified thrift investments equal or exceed 70 percent of the savings association's portfolio assets; and

"(B) the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets, as measured by a daily or weekly average of such qualified thrift investments and such portfolio assets, for the 2-year period beginning on July 1, 1991, and for each 2-year period thereafter.

"(2) EXCEPTIONS GRANTED BY DIRECTOR.—Notwithstanding paragraph (1), the Director may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Director deems necessary if—

"(A) the Director determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

"(B) the Director determines that—

"(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act;

"(ii) the acquired association will comply with the transition requirements of paragraph (7)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

"(iii) the Director determines that the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

"(3) FAILURE TO BECOME AND REMAIN A QUALIFIED THRIFT LENDER.—

"(A) IN GENERAL.—A savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank) or be subject to subparagraph (B), except as provided in subparagraph (D).

"(B) RESTRICTIONS APPLICABLE TO SAVINGS ASSOCIATIONS THAT ARE NOT QUALIFIED THRIFT LENDERS.—

"(i) RESTRICTIONS EFFECTIVE IMMEDIATELY.—The following restrictions shall apply to a savings association beginning on the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) BRANCHING.—The savings association shall not establish any new branch office at any location at which a national bank located in the savings association's home State may not establish a branch office. For purposes of this subclause, a savings association's home State is the State in which the savings association's total deposits were largest on the date on which the savings association should have become or ceased to be a qualified thrift lender.

"(III) ADVANCES.—The savings association shall not be eligible to obtain new advances from any Federal home loan bank.

"(IV) DIVIDENDS.—The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank.

"(ii) ADDITIONAL RESTRICTIONS EFFECTIVE AFTER THREE YEARS.—The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) ACTIVITIES.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) ADVANCES.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association.

"(C) HOLDING COMPANY REGULATION.—Any company that controls a savings association that is subject to any provision of subparagraph (B) shall, within one year after the date on which the savings association should have become or ceases to be a qualified thrift lender, register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956, section 8 of the Federal Deposit Insurance Act, and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the savings association were a bank, as those terms are defined in the Bank Holding Company Act of 1956.

"(D) REQUALIFICATION.—A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) or (C) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) for the preceding 2-year period and remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) and (C) as if all the periods described in subparagraphs (B)(ii) and (C) had expired.

"(E) DEPOSIT INSURANCE ASSESSMENTS.—Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

"(i) December 31, 1993, or

"(ii) the institution's change of status from a Savings Association Insurance Fund member to a Bank Insurance Fund member,

whichever is later.

"(F) EXEMPTION FOR SPECIALIZED SAVINGS ASSOCIATION SERVING TRANSIENT MILITARY PERSONNEL.—Subparagraph (A) shall not apply to a savings association subsidiary of a savings and loan holding company if—

"(i) the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984; and

"(ii) at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.

"(G) EXEMPTION FOR CERTAIN FEDERAL SAVINGS ASSOCIATIONS.—This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law.

"(H) NO CIRCUMVENTION OF EXIT MORATORIUM.—Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' means the percentage determined by dividing—

"(i) the amount of a savings association's qualified thrift investments, by

"(ii) the amount of the savings association's portfolio assets.

"(B) PORTFOLIO ASSETS.—The term 'portfolio assets' means, with respect to any savings association, the total assets of the savings association, minus the sum of—

"(i) goodwill and other intangible assets;

"(ii) the value of property used by the savings association to conduct its business; and

"(iii) liquid assets of the type required to be maintained under section 6 of the Home Owners' Loan Act, in an amount not exceeding the amount equal to 10 percent of the savings association's total assets.

"(C) QUALIFIED THRIFT INVESTMENTS.—

"(i) IN GENERAL.—The term 'qualified thrift investments' means, with respect to any savings association, the assets of the savings association that are described in clauses (ii) and (iii).

"(ii) ASSETS INCLUDIBLE WITHOUT LIMIT.—The following assets are described in this clause for purposes of clause (i):

"(I) The aggregate amount of loans held by the savings association that were made to purchase, refinance, construct, improve, or repair domestic residential housing or manufactured housing.

"(II) Home-equity loans.

"(III) Securities backed by or representing an interest in mortgages on domestic residential housing or manufactured housing.

"(IV) EXISTING OBLIGATIONS OF DEPOSIT INSURANCE AGENCIES.—Direct or indirect obligations of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation issued in accordance with the terms of agreements entered into prior to July 1, 1989, for the 10-year period beginning on the date of issuance of such obligations.

"(V) NEW OBLIGATIONS OF DEPOSIT INSURANCE AGENCIES.—Obligations of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the FSLIC Resolution Fund, and the Resolution Trust Corporation issued in accordance with the terms of agreements entered into on or after July 1, 1989, for the 5-year period beginning on the date of issuance of such obligations.

"(iii) ASSETS INCLUDIBLE SUBJECT TO PERCENTAGE RESTRICTION.—The following assets are described in this clause for purposes of clause (i):

"(I) 50 percent of the dollar amount of the residential mortgage loans originated by such savings association and sold within 90 days of origination.

"(II) Investments in the capital stock or obligations of, and any other security issued by, any service corporation if such service corporation derives at least 80 percent of its annual gross revenues from activities directly related to purchasing, refinancing, constructing, improving, or repairing domestic residential real estate or manufactured housing.

"(III) 200 percent of the dollar amount of loans and investments made to acquire, develop, and construct 1- to 4-family residences the purchase price of which is or is guaranteed to be not greater than 60 percent of the median value of comparable newly constructed 1- to 4-family residences within the local community in which such real estate is located, except that not more than 25 percent of the amount included under this subclause may consist of commercial properties related to the development if those properties are directly related to providing services to residents of the development.

"(IV) 200 percent of the dollar amount of loans for the acquisition or improvement of residential real property, churches, schools, and nursing homes located within, and loans for any other purpose to any small businesses located within any area which has been identified by the Director, in connection with any review or examination of community reinvestment practices, as a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met.

"(V) Loans for the purchase or construction of churches, schools, nursing homes, and hospitals, other than those qualifying under clause (IV), and loans for the improvement and upkeep of such properties.

"(VI) Loans for personal, family, household, or educational purposes, but the dollar amount treated as qualified thrift investments under this subclause may not exceed the amount which is equal to 5 percent of the savings association's portfolio assets.

"(iv) Percentage restriction applicable to certain assets.—The aggregate amount of the assets described in clause (iii) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 15 percent of a savings association's portfolio assets.

"(v) The term 'qualified thrift investments' excludes—

"(I) except for home equity loans, that portion of any loan or investment that is used for any purpose other than those expressly qualifying under any subparagraph of clause (ii) or (iii); or

"(II) goodwill or any other intangible asset.

"(5) Consistent accounting required.—

"(A) In determining the amount of a savings association's portfolio assets, the assets of any subsidiary of the savings association shall be consolidated with the assets of the savings association if—

"(i) Assets of the subsidiary are consolidated with the assets of the savings association in determining the savings association's qualified thrift investments; or

"(ii) Residential mortgage loans originated by the subsidiary are included pursuant to paragraph (4)(C)(iii)(I) in determining the savings association's qualified thrift investments.

"(B) In determining the amount of a savings association's portfolio assets and qualified thrift investments, consistent accounting principles shall be applied.

"(6) SPECIAL RULES FOR PUERTO RICO AND VIRGIN ISLANDS SAVINGS ASSOCIATIONS.—

"(A) PUERTO RICO SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in Puerto Rico—

"(i) the term 'qualified thrift investments' includes, in addition to the items specified in paragraph (4)—

"(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Commonwealth of Puerto Rico; and

"(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Commonwealth of Puerto Rico; and

"(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(I) which is located within the Commonwealth of Puerto Rico; and

"(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Commonwealth of Puerto Rico, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

"(B) VIRGIN ISLANDS SAVINGS ASSOCIATIONS.—With respect to any savings association headquartered and operating primarily in the Virgin Islands—

"(i) the term 'qualified thrift investments' includes, in addition to the items specified in paragraph (4)—

"(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Virgin Islands; and

"(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Virgin Islands; and

"(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

"(I) which is located within the Virgin Islands; and

"(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Virgin Islands, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

"(7) TRANSITIONAL RULE FOR CERTAIN SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—If any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

"(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during period ending on September 30, 1995.

"(B) SUBPARAGRAPH (B) REQUIREMENTS.—A savings association meets the requirements of this subparagraph if, in the determination of the Director—

"(i) the actual thrift investment percentage of such association does not, after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

"(ii) the amount by which—

"(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

"(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on such date of enactment:

"For the following period:	The applicable percentage is:
July 1, 1991-September 30, 1992	25 percent
October 1, 1992-March 31, 1994	50 percent
April 1, 1994-September 30, 1995	75 percent
Thereafter	100 percent

"(C) For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of 'actual thrift investment percentage' that takes effect on July 1, 1991.".

12 USC 1467a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1991.

(c) Associations That Have Previously Failed To Remain Qualified Thrift Lenders.—If, as of June 30, 1991, any savings association is subject to any provision of section 10(m)(3) of the Home Owners' Loan Act as in effect on that date, the amendment to this subsection made by section 303 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall not be construed as reducing the period specified in section 10(m)(3) of such Act. 12 USC 1467a note.

SEC. 304. TRANSITIONAL RULE FOR CERTAIN TRANSACTIONS WITH AFFILIATES.

12 USC 1468 note.

(a) Consistency of Certain Regulations With Section 23A of the Federal Reserve Act.—Not later than 6 months after the date of enactment of this Act, the Director of the Office of Thrift Supervision shall revise the Director's conflicts regulations so as not to prohibit a thrift institution from purchasing mortgages from a mortgage-banking affiliate to the same extent as a member bank may do so under section 250.250 of title 12, Code of Federal Regulations.

(b) Transitional Period.—Notwithstanding section 11(a) of the Home Owners' Loan Act (as added by section 301 of this Act), a thrift institution that, before May 1, 1989, had received approval from the Federal Savings and Loan Insurance Corporation pursuant to section 408(d)(6) of the National Housing Act as then in effect to purchase mortgages from a mortgage-banking affiliate may, during the 6-month period following the date on which final regulations are prescribed pursuant to subsection (a), continue to engage in transactions for which it had received such approval. Any savings association that engages in such transactions pursuant to this subsection shall comply with the standards that were applicable under section 408(d)(6) as in effect on May 1, 1989.

(c) Authority To Extend Regulatory Approvals That Would Otherwise Lapse During the Transitional Period.—The Director of the Office of Thrift Supervision may extend until the expiration of the 6-month period described in subsection (b) any approval granted by the Federal Savings and Loan Insurance Corporation that expires or would expire before the expiration of that 6-month period. In determining whether to grant such exemptions, the Director shall apply the standards that were applicable under section 408(d)(6) of the National Housing Act as in effect on May 1, 1989.

SEC. 305. TRANSITIONAL RULES REGARDING CERTAIN LOANS AND EFFECTIVE DATES.

(a) Divestiture of Certain Loans and Investments Not Required.—The limitations on loans and investments contained in section 5(c) of the Home Owners' Loan Act, as amended by section 301, do not require the divestiture of any loan or investment that was lawful when made under the provisions of such section as those provisions were in effect at the time such loan or investment was made. 12 USC 1464 note.

(b) Loans Secured by Nonresidential Real Property.— 12 USC 1464 note.

(1) In general.—The Director of the Office of Thrift Supervision may, by order, permit a Federal savings association to exceed the limitation set forth in section 5(c)(2)(B)(i) of the Home Owners' Loan Act during the period beginning on the date of enactment of this Act and ending on June 1, 1991, if the Director determines that—

(A) there is a reasonable prospect that the savings association can be in compliance, not later than June 1, 1991, with the capital standards prescribed under section 5(t) of the Home Owners' Loan Act; and

(B) the increased authority—

(i) is consistent with prudent operating practices, and

(ii) is in accordance with a plan submitted by the savings association for—

(I) an orderly transition to compliance with section 5(c)(2)(B)(i), or

(II) an orderly conversion to a bank charter.

(2) OTHER EXEMPTIVE AUTHORITY NOT AFFECTED.—The authority granted by paragraph (1) is in addition to any authority of the Director under section 5(c)(2)(B)(ii) of the Home Owners' Loan Act.

12 USC 1461 note.

(c) EFFECTIVE DATE.—The amendments made by section 301 relating to civil penalties shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act, except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities—

(1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and

(2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) occurring before the date of the enactment of this Act.

SEC. 306. AMENDMENT OF ADDITIONAL POWERS OF DIRECTOR.

(a) Section 502(c) of the Housing Act of 1948 (12 U.S.C. 1701c(c)) is amended by striking out "Federal Home Loan Bank Board (which term as used in this section shall also include and refer to the Federal Savings and Loan Insurance Corporation, the Home Owners Loan Corporation, and the Chairman of the Federal Home Loan Bank Board)," and inserting in lieu thereof the following: "Director of the Office of Thrift Supervision,".

(b) Section 502(c)(1) of the Housing Act of 1948 (12 U.S.C. 1701c(b)(1)) is amended by striking out "of any State" and inserting in lieu thereof "of any Federal, State,".

SEC. 307. AMENDMENT TO TITLE 31, UNITED STATES CODE.

(a) OFFICE ESTABLISHED AS AN OFFICE WITHIN THE DEPARTMENT.—

(1) IN GENERAL.—Subchapter I of chapter 3 of title 31, United States Code, is amended by redesignating section 309 as section 310 and by inserting after section 308 the following new section:

"§ 309. Office of Thrift Supervision

"The Office of Thrift Supervision established under section 2A(a) of the Home Owners' Loan Act shall be an office in the Department of the Treasury.".

(2) CLERICAL AMENDMENT.—The table of chapters for subchapter I of chapter 3 of title 31, United States Code, is amended by redesignating the item relating to section 309 as section 310 and by inserting after the item relating to section 308 the following new item:

"309. Office of Thrift Supervision.".

(b) CONFORMING AMENDMENT.—Section 321(c) of title 31, United States Code, is amended—

(1) by adding at the end thereof the following new paragraph: "(3) of the Director of the Office of Thrift Supervision;";

(2) by striking out "and" at the end of paragraph (1); and

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and".

(c) GAO AUDIT AUTHORITY.—Section 714(a) of title 31, United States Code, is amended—

(1) by inserting ", and the Office of Thrift Supervision" before the period; and

(2) by striking out "and" after "Corporation,".

(d) CERTAIN REORGANIZATION PROHIBITED.—Section 321 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) CERTAIN REORGANIZATION PROHIBITED.—The Secretary of the Treasury may not merge or consolidate the Office of Thrift Supervision, or any of the functions or responsibilities of the Office or the Director of such office, with the Office of the Comptroller of the Currency or the Comptroller of the Currency.".

(e) TECHNICAL AND CONFORMING AMENDMENT TO GOVERNMENT CONTROL ACT.—Section 9101(3) of title 31, United States Code, is amended by striking out subparagraph (E).

SEC. 308. PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS.

12 USC 1463 note.

(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with the Director of the Office of Thrift Supervision and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:

(1) Preserving the present number of minority depository institutions.

(2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:

(A) Same type of minority depository institution in the same city.

(B) Same type of minority depository institution in the same State.

(C) Same type of minority depository institution nationwide.

(D) Any type of minority depository institution in the same city.

(E) Any type of minority depository institution in the same State.

(F) Any type of minority depository institution nationwide.

(G) Any other bidders.

(3) Providing technical assistance to prevent insolvency of institutions not now insolvent.

(4) Promoting and encouraging creation of new minority depository institutions.

(5) Providing for training, technical assistance, and educational programs.

(b) DEFINITIONS.—For purposes of this section—

(1) MINORITY FINANCIAL INSTITUTION.—The term "minority depository institution" means any depository institution that—

(A) if a privately owned institution, 51 percent is owned by one or more socially and economically disadvantaged individuals;

(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

(C) in the case of a mutual institution where the majority of the Board of Directors, account holders, and the community which it services is predominantly minority.

(2) MINORITY.—The term "minority" means any black American, Native American, Hispanic American, or Asian American.

12 USC 1437 note.

TITLE IV—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

Government organization and employees.

SEC. 401. FSLIC AND FEDERAL HOME LOAN BANK BOARD ABOLISHED.

(a) IN GENERAL.—

(1) FSLIC.—Effective on the date of the enactment of this Act, the Federal Savings and Loan Insurance Corporation established under section 402 of the National Housing Act is abolished.

(2) FHLBB.—Effective at the end of the 60-day period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board and the position of Chairman of the Federal Home Loan Bank Board are abolished.

(b) DISPOSITION OF AFFAIRS.—

(1) IN GENERAL.—During the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board—

(A) shall, solely for the purpose of winding up the affairs of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board—

(i) manage the employees of the Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee pursuant to section 403; and

(ii) manage any property of the Board and the Corporation until such property is transferred pursuant to section 405; and

(B) may take any other action necessary for the purpose of winding up the affairs of the Corporation and the Board.

(2) AVAILABILITY OF FUNDS IN FSLIC RESOLUTION FUND ON A REIMBURSABLE BASIS.—

(A) AVAILABILITY OF FUNDS.—Notwithstanding any provision of section 11A of the Federal Deposit Insurance Act (as added by section 215 of this Act), funds in the FSLIC Resolution Fund shall be available to the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out the requirements of paragraph (1).

(B) PAYMENT BY FDIC.—Upon the request of the Chairman of the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation shall pay to the Chairman from the

FSLIC Resolution Fund the amounts requested for expenses described in subparagraph (A).

(C) Exclusive source of funds.—No funds or other property of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation (other than the FSLIC Resolution Fund) may be used by the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out any provision of this title.

(D) Reimbursement by successor agencies.—Disbursements from the FSLIC Resolution Fund pursuant to subparagraph (A) which are attributable to employees described in paragraph (1)(A)(i) and property described in paragraph (1)(A)(ii) shall be reimbursed by the agency to which any such employee or property is transferred.

(c) Authority and Status of Chairman of the Federal Home Loan Bank Board.—

(1) In general.—Notwithstanding the repeal of section 17 of the Federal Home Loan Bank Act by section 703 of this Act, the repeal of section 402(c) of the National Housing Act by section 407 of this title, the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, the Chairman of the Federal Home Loan Bank Board shall have any authority vested in the Chairman or the Board before such date of enactment which is necessary for the Chairman to carry out the requirements of this section, paragraphs (1) and (2) of section 403(b), and section 405(a) during the 60-day period beginning on such date.

(2) Other provisions.—For purposes of paragraph (1), the Chairman of the Federal Home Loan Bank Board shall continue to be—

(A) treated as an officer of the United States during the 60-day period referred to in such subparagraph; and

(B) entitled to compensation at the annual rate of basic pay payable for level III of the Executive Schedule.

(3) No additional compensation if appointed director.—During the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board shall not be entitled to any additional compensation by reason of his appointment as Director of the Office of Thrift Supervision.

(d) Status of Employees Before Transfer.—

(1) Employees of fslic.—Any employee of the Federal Savings and Loan Insurance Corporation shall be treated as an employee of the Federal Home Loan Bank Board for purposes of subsection (b)(1)(A)(i).

(2) Rule of construction.—The repeal of section 17 of the Federal Home Loan Bank Act by section 703 of this Act, the repeal of section 402(c) of the National Housing Act by section 407 of this title, and the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, shall not be construed as affecting the status of employees of such Corporation or of the Federal Home Loan Bank Board as employees of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee pursuant to section 403.

(e) Continuation of Services.—

(1) In general.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board may use the services of employees and other personnel and the property of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, on a reimbursable basis, to perform functions which have been transferred to such agencies for such time as is reasonable to facilitate the orderly transfer of functions transferred pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) Reimbursement.—The reimbursement required under paragraph (1) with respect to employees, personnel, and property described in such paragraph shall be made to the FSLIC Resolution Fund and shall be taken into account in determining the amount of any reimbursement required under subsection (b)(2)(D).

(3) Agency services.—Any agency, department, or other instrumentality of the United States (including any Federal home loan bank), and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation before the enactment of this Act in connection with functions that are transferred to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(f) Savings Provisions Relating to FSLIC.—

(1) Existing rights, duties, and obligations not affected.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Savings and Loan Insurance Corporation, or any other person, which—

(A) arises under or pursuant to any section of title IV of the National Housing Act; and

(B) existed on the day before the date of the enactment of this Act.

(2) Continuation of suits.—No action or other proceeding commenced by or against the Federal Savings and Loan Insurance Corporation, or any Federal home loan bank with respect to any function of the Corporation which was delegated to employees of such bank, shall abate by reason of the enactment of this Act, except that the appropriate successor to the interests of such Corporation shall be substituted for the Corporation or the Federal home loan bank as a party to any such action or proceeding.

(g) Savings Provisions Relating to FHLBB.—

(1) Existing rights, duties, and obligations not affected.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Home Loan Bank Board, or any other person, which—

(A) arises under or pursuant to the Federal Home Loan Bank Act, the Home Owners' Loan Act of 1933, or any other provision of law applicable with respect to such Board (other than title IV of the National Housing Act); and

(B) existed on the day before the date of the enactment of this Act.

(2) CONTINUATION OF SUITS.—

(A) IN GENERAL.—No action or other proceeding commenced by or against the Federal Home Loan Bank Board, or any Federal home loan bank with respect to any function of the Board which was delegated to employees of such bank, shall abate by reason of the enactment of this Act, except that the appropriate successor to the interests of such Board shall be substituted for the Board or the Federal home loan bank as a party to any such action or proceeding.

(h) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—Subject to section 402, all orders, resolutions, determinations, and regulations, which—

(1) have been issued, made, prescribed, or allowed to become effective by the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect on the date this Act takes effect,

shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations and shall be enforceable by or against the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, until modified, terminated, set aside, or superseded in accordance with applicable law by the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, by any court of competent jurisdiction, or by operation of law.

(i) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

(1) identify the regulations and orders which relate to the conduct of conservatorships and receiverships in accordance with the allocation of authority between them under this Act and the amendments made by this Act; and

(2) promptly publish notice of such identification in the Federal Register.

Federal Register, publication.

SEC. 402. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

(a) REGULATIONS RELATING TO INSURANCE FUNCTIONS.—All regulations and orders of the Federal Savings and Loan Insurance Corporation, or the Federal Home Loan Bank Board (in such Board's capacity as the board of trustees of such Corporation), which are in effect on the date of the enactment of this Act and relate to—

(1) the provision, rates, or cancellation of insurance of accounts; or

(2) the administration of the insurance fund of the Federal Savings and Loan Insurance Corporation,

shall remain in effect according to the terms of such regulations and orders and shall be enforceable by the Federal Deposit Insurance Corporation unless determined otherwise by such Corporation after consultation with the Director of the Office of Thrift Supervision and, with respect to regulations and orders relating to the scope of deposit insurance coverage, pursuant to subsection (c).

(b) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

(1) identify the regulations and orders referred to in subsection (a) of this section in accordance with the allocation of authority between them under this Act and the amendments made by this Act; and

Federal Register, publication.

(2) promptly publish notice of such identification in the Federal Register.

(c) PROCEDURE FOR DIFFERENCES IN DEPOSIT INSURANCE COVERAGE BETWEEN FSLIC AND FDIC.—

(1) TRANSITION RULE.—Until the effective date of regulations prescribed under paragraph (3)(B), any determination of the amount of any insured deposit in any depository institution which becomes an insured depository institution as a result of the amendment made to section 4(a) of the Federal Deposit Insurance Act by section 205(1) of this Act shall be made in accordance with the regulations and interpretations of the Federal Savings and Loan Insurance Corporation for determining the amount of an insured account which were in effect on the day before the date of the enactment of this Act.

(2) LIMITATION ON EXTENT OF COVERAGE.—During the period beginning on the date of the enactment of this Act and ending on the effective date of regulations prescribed under paragraph (3)(B), the amount of any insured account which is required to be treated as an insured deposit pursuant to paragraph (1) shall not exceed the amount of insurance to which such insured account would otherwise have been entitled pursuant to the regulations and interpretations of the Federal Savings and Loan Insurance Corporation which were in effect on the day before the date of the enactment of this Act.

(3) UNIFORM TREATMENT OF INSURED DEPOSITS.—The Federal Deposit Insurance Corporation shall—

(A) review its regulations, principles, and interpretations for deposit insurance coverage and those established by the Federal Savings and Loan Insurance Corporation; and

Regulations.

(B) on or before the end of the 270-day period beginning on the date of the enactment of this Act, prescribe a uniform set of regulations which shall be applicable to all insured deposits in insured depository institutions (except to the extent any provision of this Act, any amendment made by this Act to the Federal Deposit Insurance Act, or any other provision of law requires or explicitly permits the Federal Deposit Insurance Corporation to treat insured deposits of Savings Association Insurance Fund members differently than insured deposits of Bank Insurance Fund members).

(4) FACTORS REQUIRED TO BE CONSIDERED.—In prescribing regulations providing for the uniform treatment of deposit insurance

coverage, the Federal Deposit Insurance Corporation shall consider all relevant factors necessary to promote safety and soundness, depositor confidence, and the stability of deposits in insured depository institutions.

(5) NOTICE; EFFECTIVE DATE.—Regulations prescribed under this subsection shall—

(A) provide for effective notice to depositors in insured depository institutions of any change in deposit insurance coverage which would result under such regulations; and

(B) take effect on or before the end of the 90-day period beginning on the date such regulations become final.

(6) DEFINITIONS.—For purposes of this subsection—

(A) INSURED ACCOUNT.—The term "insured account" has the meaning given to such term in section 401(c) of the National Housing Act (as in effect before the date of the enactment of this Act).

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(d) INTERIM TREATMENT OF CUSTODIAL ACCOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding subsection (a) or any limitation contained in the Federal Deposit Insurance Act relating to the amount of deposit insurance available to any 1 borrower, amounts held in custodial accounts in insured depository institutions (as defined in section 3(c)(2) of such Act) for the payment of principal, interest, tax, and insurance payments for mortgage borrowers, shall be insured under the Federal Deposit Insurance Act in the amount of $100,000 per mortgage borrower.

(2) TREATMENT AFTER EFFECTIVE DATE OF NEW REGULATIONS.—After the effective date of the regulations prescribed under subsection (c)—

(A) the amount of deposit insurance available for custodial accounts shall be determined in accordance with such regulations; and

(B) paragraph (1) shall cease to apply with respect to such accounts.

(e) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS.—

(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act, any reference in the instrument to the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, or institutions insured by the Federal Savings and Loan Insurance Corporation before such date shall be treated as a reference to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Office of Thrift Supervision, or institutions which are members of the Savings Association Insurance Fund, as appropriate on the basis of the transfer of functions pursuant to this Act, unless the context of the reference requires otherwise.

(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, any index—

(A) made available by the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board pursuant to paragraph (3); or

(B) determined by the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available,

may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall take such action as may be necessary to assure that the indexes prepared by the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, and the Federal home loan banks immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Board, as the case may be, determines, after notice and opportunity for comment, that—

(A) the new index is based upon data substantially similar to that of the original index; and

(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

SEC. 403. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

(a) ALL FHLBB AND FSLIC EMPLOYEES SHALL BE TRANSFERRED.—All employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall be identified for transfer under subsection (b) to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the Federal Housing Finance Board.

(b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the Federal Housing Finance Board, and the Chairman of the Federal Home Loan Bank Board (as of the day before the date of the enactment of this Act) shall jointly determine the functions or activities of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, and the number of employees of such Board and Corporation necessary to perform or support

such functions or activities, which are transferred from the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board, as the case may be.

(2) ALLOCATION OF EMPLOYEES.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall allocate the employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation consistent with the number determined pursuant to paragraph (1) in a manner which such Director, Chairman, and Chairpersons, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(c) FEDERAL HOME LOAN BANK PERSONNEL.—Employees of the Federal home loan banks or the joint offices of such banks who, on the day before the date of the enactment of this Act, are performing functions or activities on behalf of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation shall be treated as employees of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Board or Corporation to the extent such functions or activities are transferred to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Resolution Trust Corporation, or the Federal Housing Finance Board.

(d) FSLIC EMPLOYEES ENGAGED IN CONSERVATORSHIP OR RECEIVERSHIP FUNCTIONS.—Individuals who, on the day before the date of the enactment of this Act, are employed by the Federal Savings and Loan Insurance Corporation in such Corporation's capacity as conservator or receiver of any insured depository institution shall be treated as employees of the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Corporation if such conservatorship or receivership is transferred to the Federal Deposit Insurance Corporation or the Resolution Trust Corporation.

SEC. 404. RIGHTS OF EMPLOYEES OF ABOLISHED AGENCIES.

All employees identified for transfer under subsection (b) of section 403 (other than individuals described in subsection (c) or (d) of such section) shall be entitled to the following rights:

(1) Each employee so identified shall be transferred to the appropriate agency or entity for employment no later than 60 days after the date of the enactment of this Act and such transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code.

(2) Each transferred employee shall be guaranteed a position with the same status, tenure, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or

reduced in grade or compensation for 1 year after the date of transfer, except for cause.

(3)(A) In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).

(B) An agency or entity may decline a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(4) If any agency or entity to which employees are transferred determines, after the end of the 1-year period beginning on the date the transfer of functions to such agency or entity is completed, that a reorganization of the combined work force is required, that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(5) Any employee accepting employment with any agency or entity (other than the Office of Thrift Supervision) as a result of such transfer may retain for 1 year after the date such transfer occurs membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, to which such employee belongs on the date of the enactment of this Act if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Office of Thrift Supervision.

The difference in the costs between the benefits which would have been provided by such agency or entity and those provided by this section shall be paid by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

(6) Any employee employed by the Office of Thrift Supervision as a result of the transfer may retain membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, which such employee has on the date of enactment of this Act, if such employee does not elect to give up such membership and the benefit or program is continued by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, such employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or discontinuance, without regard to any other regularly scheduled open season.

(7) A transferring employee in the Senior Executive Service shall be placed in a comparable position at the agency or entity to which such employee is transferred.

(8) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(9) Upon the termination of the Resolution Trust Corporation pursuant to section 21A(m) of the Federal Home Loan Bank Act, any employee of such Corporation shall be transferred to the Federal Deposit Insurance Corporation in accordance with the provisions of paragraphs (2) and (4) through (7) of this subsection, except that the liability for any difference in the costs of benefits described in paragraph (5) shall be a liability of the Resolution Trust Corporation and not the Office of Thrift Supervision.

SEC. 405. DIVISION OF PROPERTY AND FACILITIES.

Before the end of the 60-day period beginning on the date of the enactment of this Act, the Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall jointly divide all property of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board used to perform functions and activities of the Federal Home Loan Bank Board among the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and the Federal Housing Finance Board in accordance with the division of responsibilities, functions, and activities effected by this Act. Any disagreement between them in so doing shall be resolved by the Director of the Office of Management and Budget.

SEC. 406. REPORT.

Before the end of the 60-day period beginning on the date of the enactment of this Act, the Chairman of the Federal Home Loan Bank Board shall provide by written report to the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Congress, a final accounting of the finances and operations of the Federal Savings and Loan Insurance Corporation.

SEC. 407. REPEALS.

Title 4 of the National Housing Act (1724 et seq.) is hereby repealed. 12 USC 1724 *et seq.*

TITLE V—FINANCING FOR THRIFT RESOLUTIONS

Subtitle A—Oversight Board and Resolution Trust Corporation

SEC. 501. OVERSIGHT BOARD AND RESOLUTION TRUST CORPORATION ESTABLISHED.

(a) In General.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21 the following new section:

12 USC 1441a.

"SEC. 21A. OVERSIGHT BOARD AND RESOLUTION TRUST CORPORATION.

"(a) OVERSIGHT BOARD ESTABLISHED.—

"(1) IN GENERAL.—There is hereby established the Oversight Board as an instrumentality of the United States with the powers and authorities herein provided.

"(2) STATUS.—The Oversight Board shall oversee and be accountable for the Resolution Trust Corporation (hereinafter referred to in this section as the 'Corporation'). The Oversight Board shall be an 'agency' of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

"(3) MEMBERSHIP.—

"(A) IN GENERAL.—The Oversight Board shall consist of 5 members—

"(i) the Secretary of the Treasury;

"(ii) the Chairman of the Board of Governors of the Federal Reserve System;

"(iii) the Secretary of Housing and Urban Development; and

"(iv) two independent members appointed by the President, with the advice and consent of the Senate. Such nominations shall be referred to the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(B) POLITICAL AFFILIATION.—The independent members shall not be members of the same political party. No independent member of the Oversight Board shall hold any other appointed office during his or her term as a member.

"(C) CHAIRPERSON.—The Chairperson of the Oversight Board shall be the Secretary of the Treasury.

"(D) TERM OF OFFICE.—The term of each member (other than the independent members) of the Oversight Board shall expire when such member has fulfilled all of his or her responsibilities under this section and section 21B. The term of each independent member shall be 3 years.

"(E) QUORUM REQUIRED.—A quorum shall consist of 3 members of the Oversight Board and all decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(4) COMPENSATION AND EXPENSES.—

"(A) EXPENSES.—Members of the Oversight Board shall receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Oversight Board, as set forth in the bylaws issued by the Oversight Board.

"(B) NO ADDITIONAL COMPENSATION FOR UNITED STATES OFFICERS OR EMPLOYEES.—Members of the Oversight Board (other than independent members) shall receive no additional pay by reason of service on such Board.

"(C) COMPENSATION FOR INDEPENDENT MEMBERS.—The independent members of the Oversight Board shall be paid at a rate equal to the daily equivalent of the rate of basic pay for level II of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties of the Oversight Board.

"(5) POWERS.—The Oversight Board shall be a body corporate that shall have the power to—

"(A) adopt, alter, and use a corporate seal;

"(B) provide for a principal or executive officer and such other officers and employees as may be necessary to perform the functions of the Oversight Board, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(C) fix the compensation and number of, and appoint, employees for any position established by the Oversight Board;

"(D) set and adjust rates of basic pay for employees of the Oversight Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code;

"(E) provide additional compensation and benefits to employees of the Oversight Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation; in setting and adjusting the total amount of compensation and benefits for employees of the Oversight Board, the Oversight Board shall consult with and seek to maintain comparability with the other Federal bank regulatory agencies, except that the Oversight Board shall not in any event exceed the compensation and benefits provided by the Federal Deposit Insurance Corporation with respect to any comparable position;

"(F) with the consent of any executive agency, department, or independent agency utilize the information, services, staff, and facilities of such department or agency, on a reimbursable (or other) basis, in carrying out this section;

"(G) prescribe bylaws that are consistent with law to provide for the manner in which—

"(i) its officers and employees are selected, and

"(ii) its general operations are to be conducted;

"(H) enter into contracts and modify or consent to the modification of any contract or agreement;

"(I) sue and be sued in courts of competent jurisdiction; and

"(J) exercise any and all powers established under this section and such incidental powers as are necessary to carry out its powers, duties, and functions under this Act.

"(6) OVERSIGHT BOARD DUTIES AND AUTHORITIES.—The Oversight Board shall have the following duties and authorities with respect to the Corporation:

"(A) To develop and establish overall strategies, policies, and goals for the Corporation's activities in consultation with the Corporation, including such items as—

"(i) general policies and procedures for case resolutions, the management and disposition of assets, the use of private contractors, and the use of notes, guarantees or other obligations by the Corporation;

"(ii) overall financial goals, plans, and budgets; and

"(iii) restructuring agreements described in subsection (b)(11)(B).

"(B) To approve prior to implementation periodic financing requests developed by the Corporation.

"(C) To review all rules, regulations, principles, procedures, and guidelines that may be adopted or announced by the Corporation. After consultation with the Corporation, the Oversight Board may require the modification of any such rules, regulations, principles, procedures, or guidelines except that the rules, regulations, principles, procedures, and guidelines relating to the Corporation's powers and activities as a conservator or receiver shall be consistent with the Federal Deposit Insurance Act. The provisions of this subparagraph shall not apply to internal administrative policies and procedures, and determinations or actions described in paragraph (8) of this subsection.

"(D) To review the overall performance of the Corporation on a periodic basis, including its work, management activities, and internal controls, and the performance of the Corporation relative to approved budget plans.

"(E) To require from the Corporation any reports, documents, and records it deems necessary to carry out its oversight responsibilities.

"(F) To establish a national advisory board and regional advisory boards.

"(G) To authorize the use of proceeds from any funds provided by the Treasury to the Corporation and from any financing by the Resolution Funding Corporation established pursuant to section 21B of this Act consistent with the approved budget and financial plans of the Corporation and to oversee the collection of funds by the Resolution Funding Corporation.

"(H) To evaluate audits by the Inspector General and other congressionally required audits.

"(I) To have general oversight over the Resolution Funding Corporation as provided under section 21B of this Act.

"(J) To authorize, as appropriate, the Corporation's sale of capital certificates to the Resolution Funding Corporation.

"(7) TRANSITION POLICIES.—Until such time as the Oversight Board and the Corporation (consistent with paragraph (6) and subsection (b)(12)) adopt strategies, policies, goals, regulations, rules, operating principles, procedures, or guidelines, the Corporation may carry out its duties in accordance with the strategies, policies, goals, regulations, rules, operating principles, procedures, or guidelines of the Federal Deposit Insurance Corporation, notwithstanding the provisions of section 553 of title 5, United States Code.

"(8) LIMITATION ON AUTHORITY.—

"(A) IN GENERAL.—The Corporation shall have the authority, without any prior review, approval, or disapproval by the Oversight Board, to make such determinations and take such actions as it deems appropriate with respect to case-specific matters (i) involving individual case resolutions, (ii) asset liquidations, or (iii) day-to-day operations of the Corporation. The preceding sentence in no way limits the authority of the Oversight Board to provide general policies and procedures.

"(B) FEDERAL DEPOSIT INSURANCE CORPORATION.—Nothing contained in this section shall give the Oversight Board authority over the activities, powers, or functions of the Federal Deposit Insurance Corporation except to the extent provided in this section and only with respect to the activities of the Federal Deposit Insurance Corporation in carrying out the responsibilities of the Corporation. The Federal Deposit Insurance Corporation shall be subject to the obligations, responsibilities, duties, and restrictions imposed by this section only to the extent it is carrying out the functions of the Corporation.

"(9) DELEGATION.—Except with respect to the meetings required by paragraph (10), nothing in this section shall preclude a member of the Oversight Board who is a public official from delegating his or her authority to an employee or officer of such member's agency or organization, if such employee or officer has been appointed by the President with the advice and consent of the Senate. For purposes of the preceding sentence, the Chairman of the Board of Governors of the Federal Reserve System may delegate his or her authority to another member of the Board of Governors.

"(10) QUARTERLY MEETINGS.—Not less than 4 times each year, the Oversight Board shall conduct open meetings to establish and review the general policy of the Corporation and to consider such other standards, policies, and procedures necessary to carry out its functions under this Act.

"(11) POWER TO REMOVE; JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Oversight Board is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction. The Oversight Board may, without bond or security, remove any such action, suit, or proceeding from a State court to a United States District Court or to the United States District Court for the District of Columbia.

"(12) ADMINISTRATIVE EXPENSES.—The administrative expenses of the Oversight Board shall be paid by the Corporation, upon request of the Oversight Board.

"(13) STANDARDS, POLICIES, PROCEDURES, GUIDELINES, AND STATEMENTS.—The Oversight Board may issue rules, regulations, standards, policies, procedures, guidelines, and statements as the Oversight Board considers necessary or appropriate to carry out its authorities and duties under this Act which shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.

"(14) STRATEGIC PLAN FOR CORPORATION OPERATIONS.—

"(A) IN GENERAL.—The Oversight Board shall, subject to paragraph (6), develop a strategic plan for conducting the Corporation's functions and activities. The Oversight Board shall submit the strategic plan to the Congress not later than December 31, 1989.

"(B) PROVISIONS OF PLAN.—The strategic plan and implementing policies and procedures required under this paragraph shall at a minimum contain the following:

"(i) Factors the Corporation shall consider in deciding the order in which failed institutions or categories of failed institutions will be resolved.

"(ii) Standards the Corporation shall use to select the appropriate resolution action for a failed institution.

"(iii) With respect to assisted acquisitions, factors the Corporation shall consider in deciding whether nonperforming assets of the failed institution will be transferred to the acquiring institution rather than retained by the Corporation for management and disposal.

"(iv) Plans for the disposition of assets.

"(v) Management objectives by which the Corporation's progress in carrying out its duties under this section can be measured.

"(vi) A plan for the organizational structure and staffing of the Corporation, including an assessment of the extent to which the Corporation will perform asset management functions and other duties through contracts with public and private entities.

"(vii) Consideration of whether incentives should be included in asset management contracts to promote active and efficient asset management.

"(viii) Standards for adequate competition and fair and consistent treatment of offerors.

Discrimination, prohibition.

"(ix) Standards that prohibit discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.

Women. Minorities.

"(x) Procedures for the active solicitation of offers from minorities and women.

"(xi) Procedures requiring that unsuccessful offerors be notified in writing of the decision within 30 days after the offer has been rejected.

"(xii) Procedures for establishing the market value of assets based upon standard market analysis, valuation, and appraisal practices.

"(xiii) Procedures requiring the timely evaluation of purchase offers for an institution.

"(xiv) Procedures for bulk sales and auction marketing of assets.

Disadvantaged persons. Homeless persons. Children and youth.

"(xv) Guidelines for determining if the value of an asset has decreased so that no reasonable recovery is anticipated. In such cases, the Corporation may consider potential public uses of such asset including providing housing for lower income families (including the homeless), day care centers for the children of low- and moderate-income families, or such other public purpose designated by the Secretary of Housing and Urban Development.

"(xvi) Guidelines for the conveyance of assets to units of general local government, States, and public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary of Housing and Urban Development under section 810 of the Housing and Community Development Act of 1974.

"(xvii) Policies and procedures for avoiding political favoritism and undue influence in contracts and decisions made by the Oversight Board and the Corporation.

"(15) **Termination.**—The Oversight Board shall terminate not later than 60 days after the Oversight Board fulfills all of its responsibilities under this Act.

"(b) **Resolution Trust Corporation Established.**—

"(1) **Establishment.**—

"(A) **In general.**—There is hereby established a Corporation to be known as the Resolution Trust Corporation which shall be an instrumentality of the United States.

"(B) **Status.**—The Corporation shall be deemed to be an agency of the United States for purposes of subchapter II of chapter 5 and chapter 7 of title 5, United States Code, when it is acting as a corporation. The Corporation, when it is acting as a conservator or receiver of an insured depository institution, shall be deemed to be an agency of the United States to the same extent as the Federal Deposit Insurance Corporation when it is acting as a conservator or receiver of an insured depository institution.

"(C) **FDIC as exclusive manager.**—Immediately upon enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Federal Deposit Insurance Corporation shall be authorized to and shall perform all responsibilities of the Corporation, and shall continue to do so unless removed pursuant to subsection (m).

"(2) **Government corporation.**—Notwithstanding the fact that no Government funds may be invested in the Corporation, the Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(3) **Duties.**—The duties of the Corporation shall be to carry out a program, under the general oversight of the Oversight Board and through the Federal Deposit Insurance Corporation (or any replacement authorized pursuant to subsection (m)), including:

"(A) To manage and resolve all cases involving depository institutions—

"(i) the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and

"(ii) for which a conservator or receiver—

"(I) had been appointed at any time during the period beginning on January 1, 1989, and ending on the date of the enactment of such Act (including any institution described in paragraph (6)); or

"(II) is appointed within the 3-year period beginning on the date of the enactment of such Act.

"(B) To manage the Federal Asset Disposition Association, subject to the provisions of subsection (f).

"(C) To conduct the operations of the Corporation in a manner which—

"(i) maximizes the net present value return from the sale or other disposition of institutions described in subparagraph (A) or the assets of such institutions;

"(ii) minimizes the impact of such transactions on local real estate and financial markets;

"(iii) makes efficient use of funds obtained from the Funding Corporation or from the Treasury;

"(iv) minimizes the amount of any loss realized in the resolution of cases; and

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.

"(D) To perform any other function authorized under this section.

"(4) CONSERVATORSHIP, RECEIVERSHIP, AND ASSISTANCE POWERS.—Except as provided in paragraph (5) and in addition to any other provision of this section, the Corporation shall have the same powers and rights to carry out its duties with respect to institutions described in paragraph (3)(A) as the Federal Deposit Insurance Corporation has under sections 11, 12, and 13 of the Federal Deposit Insurance Act with respect to insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act).

"(5) LIMITATION ON PARAGRAPH (4) POWERS.—The Corporation—

"(A) may not obligate the Federal Deposit Insurance Corporation or any funds of the Federal Deposit Insurance Corporation; and

"(B) in connection with providing assistance to an institution under this subsection, shall be subject to the limitations contained in section 13(c)(4) of the Federal Deposit Insurance Act.

"(6) SUCCESSOR TO FSLIC AS CONSERVATOR OR RECEIVER.—As of the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any institution for which the Federal Savings and Loan Insurance Corporation was appointed conservator or receiver during the period beginning on January 1, 1989 and ending on such date of enactment.

"(7) OBLIGATIONS AND GUARANTEES.—The Corporation's authority to issue obligations and guarantees shall be subject to general supervision by the Oversight Board under subsection (a) and shall be consistent with subsection (j).

"(8) BOARD OF DIRECTORS.—

"(A) IN GENERAL.—Except as provided in subsection (m), the Board of Directors of the Federal Deposit Insurance Corporation shall serve as the Board of Directors of the Corporation.

"(B) CHAIRPERSON.—Except as provided in subsection (m), the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation shall serve as the Chairperson of the Board of Directors of the Corporation.

"(C) COMPENSATION.—Members of the Board of Directors of the Corporation shall receive no pay, allowances, or benefits from the Corporation by reason of their service on the Board of Directors, but shall receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors, as set forth in the bylaws issued by the Board of Directors.

"(9) STAFF.—

"(A) IN GENERAL.—Unless the Oversight Board exercises its authority under subsection (m), the Corporation itself shall have no employees.

"(B) UTILIZATION OF PERSONNEL OF OTHER AGENCIES.—

"(i) FDIC.—The Federal Deposit Insurance Corporation, when acting as the exclusive manager of the Corporation, shall (subject to subsection (a)(6)) receive reimbursement from the Corporation for all services performed for the Corporation. Such reimbursement may not exceed the actual and reasonable cost incurred by the Federal Deposit Insurance Corporation in performing such services.

"(ii) OTHER AGENCIES.—With the agreement of any executive department or agency, the Corporation may utilize the personnel of any such executive department or agency on a reimbursable basis to cover actual and reasonable expenses.

"(10) CORPORATE POWERS.—The Corporation shall have the following powers:

"(A) To adopt, alter, and use a corporate seal.

"(B) In the event the Oversight Board exercises its authority under subsection (m), the Corporation shall provide for a chief executive officer, 1 or more vice presidents, a secretary, a general counsel, a treasurer, and such other officers, employees, attorneys, and agents as the Corporation may determine to be necessary, define the duties of such officers or employees, and require surety bonds or make other provisions against losses occasioned by acts of such individuals.

"(C) To enter into contracts and modify, or consent to the modification of, any contract or agreement to which the Corporation is a party or in which the Corporation has an interest under this section.

"(D) To make advance, progress, or other payments.

"(E) To acquire, hold, lease, mortgage, maintain, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the operations of the Corporation.

"(F) To sue and be sued in its corporate capacity in any court of competent jurisdiction.

"(G) To deposit any securities or funds held by the Corporation in any facility or depositary described in section 13(b) of the Federal Deposit Insurance Act under the terms and conditions applicable to the Federal Deposit Insurance Corporation under such section 13(b) and pay fees thereof and receive interest thereon.

"(H) To take warrants, voting and nonvoting equity, or other participation interests in institutions or assets or properties of institutions described in paragraph (3)(A) and paragraph (11)(A)(iv).

"(I) To use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(J) To prescribe through its Board of Directors bylaws that shall be consistent with law.

"(K) To make loans.

"(L) To prepare reports and provide such reports, documents, and records to the Oversight Board as required by this section.

"(M) To issue capital certificates to the Resolution Funding Corporation consistent with the provisions of section 21B of this Act in the following manner:

"(i) AUTHORIZATION TO ISSUE.—The Corporation is hereby authorized to issue to the Resolution Funding Corporation nonvoting capital certificates.

"(ii) REQUIREMENT RELATING TO THE AMOUNT OF CERTIFICATES.—The amount of certificates issued by the Corporation under clause (i) shall be equal to the aggregate amount of funds provided by the Resolution Funding Corporation to the Corporation under section 21B.

"(iii) CERTIFICATES MAY BE ISSUED ONLY TO THE RESOLUTION FUNDING CORPORATION.—Capital certificates issued under clause (i) may be issued only to the Resolution Funding Corporation in the manner and to the extent provided in section 21B and this section.

"(iv) NO DIVIDENDS.—The Corporation shall not pay dividends on any capital certificates issued under this section.

"(N) To exercise any other power established under this section and such incidental powers as are necessary to carry out its duties and functions under this section.

"(11) SPECIAL POWERS.—

"(A) IN GENERAL.—In addition to the powers of the Corporation described in paragraph (10), the Corporation shall have the following powers:

"(i) CONTRACTS.—The Corporation may enter into contracts with any person, corporation, or entity, including State housing finance authorities (as such term is defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989) and insured depository institutions, which the Corporation determines to be necessary or appropriate to carry out its responsibilities under this section. Such contracts shall be subject to the procedures adopted pursuant to paragraph (12).

"(ii) UTILIZATION OF PRIVATE SECTOR.—In carrying out the Corporation's duties under this section, the Corporation and the Federal Deposit Insurance Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services are practicable and efficient.

"(iii) MERGERS AND CONSOLIDATIONS.—The Corporation may require a merger or consolidation of an institution or institutions over which the Corporation has jurisdiction, if such merger or consolidation is consistent with section 13(c)(4) of the Federal Deposit Insurance Act.

"(iv) ORGANIZATION OF SAVINGS ASSOCIATIONS.—The Corporation may organize 1 or more Federal savings associations—

"(I) which shall be chartered by the Director of the Office of Thrift Supervision,

"(II) the deposits of which, if any, shall be insured by the Federal Deposit Insurance Corporation through the Savings Association Insurance Fund, and

"(III) which shall operate in accordance with subsection (e).

"(v) ORGANIZATION OF BRIDGE BANKS.—The Corporation may organize 1 or more bridge banks pursuant to subsection (i) of section 11 of the Federal Deposit Insurance Act with respect to any institution described in paragraph (3)(A) which becomes a bank. Such bridge bank shall be subject to subsection (e).

"(B) REVIEW OF PRIOR CASES.—The Corporation shall—

"(i) review and analyze all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and actively review all means by which it can reduce costs under existing Federal Savings and Loan Insurance Corporation agreements relating to such cases, including restructuring such agreements;

"(ii) evaluate the costs under existing Federal Savings and Loan Insurance Corporation agreements with regard to the following—

"(I) capital loss coverage,

"(II) yield maintenance guarantees,

"(III) forbearances,

"(IV) tax consequences, and

"(V) any other relevant cost consideration;

"(iii) review the bidding procedures used in resolving such cases in order to determine whether the bidding and negotiating processes were sufficiently competitive; and

"(iv) report to the Oversight Board and the Congress pursuant to subsection (k). Reports.

The Corporation shall exercise any and all legal rights to modify, renegotiate, or restructure such agreements where savings would be realized by such actions. The cost or income of any modification shall be a liability or an asset of the Corporation or the FSLIC Resolution Fund as determined by the Oversight Board. Nothing in this paragraph shall be construed as granting the Corporation any legal rights to modify, renegotiate, or restructure agreements between the Federal Savings and Loan Insurance Corporation and any other party, which did not exist prior to the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(12) REGULATIONS, POLICIES, AND PROCEDURES.—

"(A) IN GENERAL.—Subject to the review of the Oversight Board, the Corporation shall adopt the rules, regulations, standards, policies, procedures, guidelines, and statements necessary to implement the strategic plan established by the Oversight Board under subsection (a)(14). The Corporation may issue such rules, regulations, standards, policies, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out this section.

"(B) REVIEW, ETC.—Such rules, regulations, standards, policies, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Oversight Board promptly or prior to publication or announcement to the extent practicable;

"(ii) shall be subject to the review of the Oversight Board as provided in subsection (a)(6)(C); and

"(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.

"(C) PREPARATION AND MAINTENANCE OF RECORDS RELATING TO SOLICITATION AND ACCEPTANCE OF OFFERS.—The Corporation shall—

"(i) document decisions made in the solicitation and selection process and the reasons for the decisions; and

"(ii) maintain such documentation in the offices of the Corporation, as well as any other documentation relating to the solicitation and selection process.

Real property.

"(D) DISTRESSED AREAS.—

"(i) IN GENERAL.—In developing its implementing policies, the Corporation shall take the action described in clause (ii) to avoid adverse economic impact for those real estate markets that are distressed.

"(ii) VALUATION AND DISPOSITION.—The Corporation shall establish an appraisal or other valuation method for determining the market value of real property. With respect to a real property asset with a market value in excess of a certain dollar limit (such limit to be determined by the Board of Directors of the Corporation), consideration shall be given to the volume of assets above such limit and the potential impact of sales in such distressed areas. The Corporation shall not sell a real property asset located in a distressed area without obtaining at least the minimum disposition price, unless a determination has been made that such a transaction furthers the objectives set forth in paragraph (3)(C).

"(iii) EXCEPTION.—The provisions of this subparagraph shall not apply to any property as long as such property is subject to the requirements of subsection (c).

"(E) DEFINITIONS.—For the purposes of this subsection—

"(i) The term 'minimum disposition price' means 95 percent of the market value established by the Corporation. The Board of Directors, in its discretion, may change the percentage set forth in this definition from time to time if the Board of Directors determines that such change does not adversely impact the objectives set forth in paragraph (3)(C).

"(ii) The term 'sell a real property asset' means to convey all title and interest in a piece of tangible real property in which the Corporation has a fee simple or equivalent interest. The term 'real property' does not include loans secured by real property, joint ventures, participation interests, options, or other similar interests. In addition, the term 'sell' does not include hypothecation of assets, issuance of asset backed securities, issuance of joint ventures, or participation interests, or other similar activities.

"(iii) The term 'distressed area' means the geographic areas in those political subdivisions designated from time to time by the Board of Directors as having depressed real estate markets. Until the Board of Directors designates otherwise, such distressed areas shall be the States of Arkansas, Colorado, Louisiana, New Mexico, Oklahoma, and Texas.

"(iv) The term 'market value' means the most probable price which a property should bring in a competitive and open market if—

"(I) all conditions requisite to a fair sale are present,

"(II) the buyer and seller are acting prudently and are knowledgable, and

"(III) the price is not affected by any undue stimulus.

"(F) Real estate asset division.—The Corporation shall establish a Real Estate Asset Division to assist and advise the Corporation with respect to the management, sale, or other disposition of real property assets of institutions described in paragraph (3)(A). The Real Estate Asset Division shall have such duties as the Corporation establishes, including the publication of an inventory of real property assets of institutions subject to the jurisdiction of the Corporation. Such inventory shall be published before January 1, 1990 and updated semiannually thereafter and shall identify properties with natural, cultural, recreational, or scientific values of special significance.

Public information.

"(13) Periodic financing requests.—The Corporation shall provide the Oversight Board with periodic financing requests which shall detail—

"(A) anticipated funding requirements for operations, case resolution, and asset liquidation,

"(B) anticipated payments on previously issued notes, guarantees, other obligations, and related activities, and

"(C) any proposed use of notes, guarantees or other obligations.

Such financing requests shall be submitted on a quarterly basis or such other period as the Oversight Board determines necessary. Following approval by the Oversight Board, such requests shall form the basis for expending funds provided by the Treasury, for transferring funds from the Resolution Funding Corporation to the Corporation and the issuance of capital certificates by the Corporation in exchange therefor.

"(14) Fiscal year 1989 funding.—

"(A) Funds from treasury.—The Secretary of the Treasury shall provide the Corporation with the sum of $18,800,000,000 in fiscal year 1989, and for such purpose the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, United States Code.

"(B) FUNDS FROM RESOLUTION FUNDING CORPORATION.—The Resolution Funding Corporation shall provide the Corporation with such sums authorized pursuant to section 21B(e)(8) and the Corporation shall issue capital certificates in exchange therefor.

Disadvantaged persons.

"(c) DISPOSITION OF ELIGIBLE RESIDENTIAL PROPERTIES.—

"(1) PURPOSE.—The purpose of this subsection is to provide homeownership and rental housing opportunities for very low-income, lower-income, and moderate-income families.

"(2) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(B) OFFERS TO SELL SINGLE FAMILY PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—For the 3-month period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to (i) qualifying households, or (ii) public agencies or nonprofit organizations that agree to (I) make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of such property, or (II) make the property available for purchase by such families. The restrictions described in subclause (I) of the preceding sentence shall be contained in the deed or other recorded instrument. If upon the expiration of such 3-month period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to lower-income families.

Marketing.

"(3) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(A) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. The clearinghouses shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to an eligible multifamily housing property for purposes of inspection.

"(B) Expression of serious interest.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under subparagraph (A), or until the Corporation determines that a property is ready for sale, whichever occurs first. Such notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(C) Notice of readiness for sale.—Upon determining that a property is ready for sale the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(D) Offers to purchase.—A qualifying multifamily purchaser receiving notice in accordance with subparagraph (C) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase a property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation.

"(E) Lower-income occupancy requirements.—Not less than 35 percent of all dwelling units purchased by a qualifying multifamily purchaser under subparagraph (D) shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located, provided that not less than 20 percent of all units shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of such property. If a single entity purchases more than 1 eligible property as part of the same negotiation, the requirements of this subparagraph shall apply in the aggregate to the properties so purchased. The requirements of this subparagraph shall be contained in the deed or other recorded instrument.

"(F) Sale of multifamily properties to other purchasers.—

"(i) If, upon the expiration of the period referred to in subparagraph (B), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(ii) The Corporation may not sell in combination with other properties any property which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(iii) If, upon the expiration of the period referred to in subparagraph (D), no qualifying multifamily purchaser has made an offer to purchase the property, the Corporation may sell the property, individually or in combination with other properties, to any purchaser.

"(G) Exemptions.—

"(i) Continued occupancy of current residents.—No purchaser of an eligible multifamily housing property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirement applicable to the property under subparagraph (E). The purchaser shall be in compliance with this paragraph if each newly vacant dwelling unit is reserved for lower-income occupancy until the lower-income occupancy requirement is met.

"(ii) FINANCIAL INFEASIBILITY.—The Secretary of Housing and Urban Development or the State housing finance agency for the State in which the property is located may temporarily reduce the lower-income occupancy requirements applicable to any property under subparagraph (E), if the Secretary or the applicable State housing finance agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return lower-income occupancy to the level required by subparagraph (E), and the Secretary of Housing and Urban Development or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(4) RENT LIMITATIONS.—

"(A) IN GENERAL.—With respect to properties under subparagraph (B), rents charged to tenants for units made available for occupancy by very-low income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by lower-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(B) APPLICABILITY.—The rent limitations under this paragraph shall apply to any eligible single-family property sold pursuant to paragraph (2)(B)(ii)(I) and to any multifamily housing property sold pursuant to paragraph (3).

"(5) PREFERENCE FOR SALES.—When selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term.

"(6) FINANCING OF SALE.—

"(A) ASSISTANCE BY CORPORATION.—

"(i) SALE PRICE.—The Corporation shall establish a market value for each eligible residential property. The Corporation shall sell eligible residential property at the net realizable market value. The Corporation may agree to sell an eligible single family property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a lower-income family to purchase the property. The Corporation may agree to sell eligible residential property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to such property under paragraphs (2) and (3).

"(ii) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to the purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide such a loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (I) a lower-income family to purchase an eligible single family property under paragraph (2); or (II) a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to the purchase of an eligible residential property under paragraph (2) or (3). The Corporation shall provide such loan in a form which would permit its sale or transfer to a subsequent holder.

"(B) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, section 810 of the Housing and Community Development Act of 1974, and the National Housing Act to enable any organization or individual to purchase eligible residential property.

"(C) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such actions as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(7) CONTRACTING RULES.—Contracts entered into under this subsection shall not be subject to the requirements of subsection (b)(11)(A).

"(8) USE OF SECONDARY MARKET AGENCIES.—

"(A) IN GENERAL.—In the disposition of eligible residential properties, the Corporation shall, in consultation with the Secretary, explore opportunities to work with secondary market entities to provide housing for lower- and moderate-income families.

"(B) CREDIT ENHANCEMENT.—With respect to such Corporation properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for lower- and moderate-income families.

"(C) Report.—In the annual report submitted by the Secretary to the Congress, the Secretary shall include a detailed description of his activities under this paragraph, including recommendations for such additional authorization as he deems necessary to implement the provisions of this subsection.

"(9) Definitions.—For purposes of this subsection—

"(A) Adjusted income.—The term 'adjusted income' has the same meaning as such term has under section 3 of the United States Housing Act of 1937.

"(B) Clearinghouses.—The term 'clearinghouses' means—

"(i) the State housing finance agency for the State in which an eligible residential property is located,

"(ii) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board, and

"(iii) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(C) Corporation.—The term 'Corporation' means the Resolution Trust Corporation either in its corporate capacity or as receiver, but does not include the Corporation in its capacity as an operating conservator.

"(D) Eligible multifamily housing property.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(i) to which the Corporation acquires title; and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(E) Eligible residential property.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(F) Eligible single family property.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(i) to which the Corporation acquires title; and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(G) Lower-income families.—The term 'lower-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(H) Net realizable market value.—The term 'net realizable market value' means a price below the market value that takes into account (i) any reductions in holding costs resulting from the expedited sale of a property, including but not limited to foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (ii) the avoidance, where applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(I) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(i) no part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(ii) that is approved by the Corporation as to financial responsibility.

"(J) PUBLIC AGENCY.—The term 'public agency'—

"(i) means any Federal, State, local, or other governmental entity; and

"(ii) includes any public housing agency.

"(K) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household (i) who intends to occupy eligible single family property as a principle residence; and (ii) whose adjusted income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(L) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means (i) a public agency, (ii) a nonprofit organization, or (iii) a for-profit entity which makes a commitment (for itself or any related entity) to satisfy the lower-income occupancy requirements specified under paragraph (3)(E) for any eligible multifamily property for which an offer to purchase is made during or after the periods specified under paragraph (3).

"(M) RURAL AREA.—The term 'rural area' has the meaning given such term in section 520 of the Housing Act of 1949.

"(N) SECRETARY.—The term 'Secretary' means the Secretary of the Housing and Urban Development.

"(O) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout such State.

"(P) VERY LOW-INCOME FAMILIES.—The term 'very-low income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(10) EXCEPTION.—The provisions of this subsection shall not apply whenever the Corporation as receiver contracts to sell all or substantially all of the assets of a closed savings association to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act).

"(11) THIRD PARTY RIGHTS.—

"(A) IN GENERAL.—The provisions of this subsection, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property once it is conveyed by the Corporation.

"(B) LOWER-INCOME OCCUPANCY.—The lower-income occupancy requirements specified under paragraphs (2) and (3) shall be judicially enforceable against purchasers of property under this subsection or their successors in interest by affected very low- and lower-income families, State housing finance agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(C) CLEARINGHOUSE.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this subsection.

"(d) NATIONAL AND REGIONAL ADVISORY BOARDS.—

"(1) NATIONAL ADVISORY BOARD.—

"(A) ESTABLISHMENT.—The Oversight Board shall establish a national advisory board to provide information to the Oversight Board, and to advise that Board on policies and programs for the sale or other disposition of real property assets of institutions which are described in subsection (b)(3)(A).

"(B) MEMBERSHIP.—The national advisory board shall consist of—

"(i) a chairperson appointed by the Oversight Board; and

"(ii) the chairpersons of any regional advisory boards established pursuant to paragraph (2).

"(C) MEETINGS.—The national advisory board shall meet 4 times a year, or more frequently if requested by the Corporation.

"(2) REGIONAL ADVISORY BOARDS.—

"(A) ESTABLISHMENT.—The Oversight Board shall establish not less than 6 regional advisory boards to advise the Corporation on the policies and programs for the sale or other disposition of real property assets of institutions described in subsection (b)(3)(A). Such regional advisory boards shall be established in any region where the Oversight Board determines that there exists a significant portfolio of real property assets of institutions which are described in subsection (b)(3)(A).

"(B) MEMBERSHIP.—

"(i) APPOINTMENT.—Each regional advisory board shall consist of 5 members. Each member shall be appointed by the Oversight Board and shall serve at the pleasure of the Oversight Board. The members shall be selected from those residents of the region who will represent the views of low- and moderate-income consumers and small businesses, or who have knowledge and experience regarding business, financial, and real estate matters.

"(ii) TERMS.—Each member of a regional advisory board shall serve a term not to exceed 2 years, except that the Oversight Board may provide for classes of members so that the terms of not more than 3 members of any such board shall expire in any 1 year.

"(C) MEETINGS.—Each regional advisory board shall meet 4 times a year, or more frequently if requested by the

Corporation. A regional advisory board shall conduct its meetings in its region.

"(3) **Prohibition on compensation.**—Members of the national and regional advisory boards shall serve without compensation, except that such members shall be entitled to receive allowances in accordance with subchapter I of chapter 57 of title 5, United States Code, for necessary expenses of travel, lodging, and subsistence incurred in attending official meetings and other activities of the boards.

"(4) **Treatment as advisory committee and termination of national and regional advisory boards.**—

"(A) **Federal advisory committee act.**—The national and regional advisory boards shall be subject to the provisions of the Federal Advisory Committee Act.

"(B) **Termination.**—Notwithstanding the provisions of the Federal Advisory Committee Act, the national advisory board and any regional advisory board established pursuant to this subsection which is in existence on the date on which the Corporation terminates shall also terminate on such date.

"(e) **Institutions Organized by the Corporation.**—

"(1) **Limitations on certain activities.**—All insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) organized by the Corporation under this section shall, during the period such institutions are within the control of the Corporation, be subject to such limitations, restrictions, and conditions as determined by the Corporation with respect to the following activities:

"(A) Growth of assets.
"(B) Lending and borrowing activities.
"(C) Asset acquisitions.
"(D) Use of brokered deposits.
"(E) Payment of deposit rates.
"(F) Setting policy or credit standards.
"(G) Capital standards.

"(2) **Applicability of other provisions of law.**—Except as otherwise provided, all insured depository institutions (defined in section 3 of the Federal Deposit Insurance Act) organized by the Corporation shall—

"(A) be subject to all laws and rules otherwise applicable to them as insured depository institutions, and

"(B) shall be subject to the supervision of the appropriate Federal banking agency (as that term is defined in section 3 of the Federal Deposit Insurance Act).

"(f) FADA.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Corporation shall liquidate the Federal Asset Disposition Association.

"(g) **Exemption From State and Local Taxation.**—The Corporation and the Oversight Board, the capital, reserves, surpluses, and assets of the Corporation and the Oversight Board, and the income derived from such capital, reserves, surpluses, or assets shall be exempt from State, municipal, and local taxation except taxes on real estate held by the Corporation, according to its value as other similar property held by other persons is taxed.

"(h) **Guarantees of FSLIC.**—

"(1) ASSUMPTION BY CORPORATION.—On the date of the enactment of this section, the Corporation shall, by operation of law (and without further action by the Corporation, the Oversight Board, the Federal Housing Finance Board, the Federal Savings and Loan Insurance Corporation, or any court), assume all rights and obligations of the Federal Savings and Loan Insurance Corporation with respect to any guarantee issued by the Federal Savings and Loan Insurance Corporation during the period beginning on January 1, 1989, and ending on such date of enactment, in connection with any loan to any savings association by any Federal Reserve bank or Federal Home Loan Bank (hereinafter in this subsection referred to as a 'lender').

"(2) PAYMENT BY CORPORATION.—Any obligation assumed by the Corporation for any guarantee described in paragraph (1) to any lender shall be paid by the Corporation before the end of the 1-year period beginning on the date of the enactment of this section. Payment shall be made from funds or assets available to the Corporation.

"(3) PRIORITY OF CLAIMS OF LENDERS.—Any claim by a lender with respect to any obligation assumed by the Corporation for a guarantee described in paragraph (1) shall have priority over all other secured or unsecured obligations of the Corporation.

"(4) TREASURY BACKUP.—If the resources of the Corporation are insufficient to pay all the obligations assumed by the Corporation under paragraph (1) within the 1-year period, the Secretary of the Treasury shall pay the amount of any such deficiency. There are hereby appropriated to the Secretary for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to pay such deficiency.

"(i) BORROWING.—

"(1) IN GENERAL.—The Corporation, upon approval of the Oversight Board, is authorized to borrow from the Treasury. The Secretary of the Treasury is authorized and directed to loan to the Corporation, on such terms as may be fixed by the Secretary of the Treasury, an amount not exceeding in the aggregate $5,000,000,000 outstanding at any one time.

Loans.

"(2) INTEREST RATE.—Each such loan shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(j) MAXIMUM AMOUNT LIMITATIONS ON OUTSTANDING OBLIGATIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, the amount which is equal to—

"(A) the sum of—

"(i) the total amount of contributions received from the Resolution Funding Corporation; and

"(ii) the total amount of outstanding obligations of the Corporation; minus

"(B) the sum of—

"(i) the amount of cash held by the Corporation; and

"(ii) the amount which is equal to 85 percent of the Corporation's estimate of the fair market value of other assets held by the Corporation,

may not exceed $50,000,000,000.

"(2) OUTSTANDING OBLIGATION DEFINED.—For purposes of this subsection (other than paragraph (3)), the term 'outstanding obligation' includes—

"(A) any obligation or other liability assumed by the Corporation from the Federal Savings and Loan Insurance Corporation under this section or pursuant to any provision of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(B) any guarantee issued by the Corporation;

"(C) the total of the outstanding amounts borrowed from the Secretary of the Treasury pursuant to subsection (i); and

"(D) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

"(3) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of any obligation issued by the Corporation, with respect to both principal and interest, if—

"(A) the principal amount of such obligation is stated in the obligation; and

"(B) the term to maturity or the date of maturity of such obligation is stated in the obligation.

"(4) ESTIMATES OF COSTS OF CONTINGENT LIABILITIES REQUIRED.—

"(A) IN GENERAL.—The Corporation shall—

"(i) estimate the cost to such Corporation of any contingent liability of the Corporation; and

"(ii) at least once each calendar quarter, make such adjustment as is appropriate in the estimate of such cost.

"(B) INCLUSION IN FINANCIAL STATEMENTS AND OUTSTANDING OBLIGATIONS.—The estimated amount of the cost to the Corporation of any contingent liability of the Corporation (taking into account the most recent adjustment to such estimate pursuant to paragraph (A)(ii)) shall be—

"(i) treated as an outstanding obligation of the Corporation for purposes of this subsection; and

"(ii) included in any financial statement of the Corporation.

"(k) REPORTING AND DISCLOSURE OBLIGATIONS.—

"(1) AUDITS.—

"(A) ANNUAL AUDIT.—The Comptroller General shall audit annually the financial statements of the Corporation in accordance with generally accepted Government auditing standards unless the Comptroller General notifies the Oversight Board not later than 180 days before the close of a fiscal year that the Comptroller General will not perform such audit for that fiscal year. In the event of such notification, the Oversight Board shall contract with an independent certified public accountant to perform the annual audit of the Corporation's financial statement in accordance with generally accepted Government auditing standards.

Contracts.

"(B) ACCESS TO BOOKS AND RECORDS.—All books, records, accounts, reports, files, and property belonging to or used by the Corporation, or the Oversight Board, or by an independent certified public accountant retained to audit the Corporation's financial statement, shall be made available to the Comptroller General.

"(2) PUBLIC DISCLOSURE OF TRANSACTIONS.—

Public information.

"(A) DISCLOSURE REQUIRED.—Except as otherwise provided in this subsection, the Corporation shall make available to the public—

"(i) any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act, not later than 30 days after the first meeting of the Oversight Board after such agreement is entered into; and

"(ii) all agreements relating to cases reviewed by the Corporation pursuant to subsection (b)(11)(B).

"(B) EXCEPTION FOR DISCLOSURES AGAINST THE PUBLIC INTEREST.—

"(i) IN GENERAL.—The Oversight Board may withhold from public disclosure any document or part of a document if the Oversight Board determines, by a unanimous affirmative vote of the members of the Board, that disclosure would be contrary to the public interest.

"(ii) REPORT OF DETERMINATION.—A written report shall be made of any determination by the Oversight Board to withhold any part of a document from public disclosure pursuant to clause (i). Such report shall contain a full explanation of the specific reasons for such determination.

"(iii) PUBLICATION AND SUBMISSION OF REPORT.—The report prepared pursuant to clause (ii) shall be—

Federal Register, publication.

"(I) published in the Federal Register; and

"(II) transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(C) AGREEMENT DEFINED.—For purposes of this subsection, the term 'agreement' includes—

"(i) all documents which effectuate the terms and conditions of the assisted transaction;

"(ii) a comparison, which the Corporation shall prepare of—

"(I) the estimated cost of the transaction, with

"(II) the estimated cost of liquidating the insured institution; and

"(iii) a description of any economic or statistical assumptions on which such estimates are based.

"(3) DISCLOSURE TO CONGRESS OF TRANSACTIONS.—

"(A) PROSPECTIVE TRANSACTIONS.—The Corporation shall make available to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any agreement entered into by the Corporation relating to a transaction for which the Corporation provides assistance pursuant to section 13(c) of the Federal Deposit Insurance Act not later than 25 days after the first meeting of the Oversight Board after such agreement is entered into. The foregoing requirement is in addition to the Corporation's obligation to make such agreements publicly available pursuant to paragraph (2).

"(B) PRIOR TRANSACTIONS.—The Corporation shall submit a report to the Oversight Board and the Congress containing the results and conclusions of the review of the 1988 transactions conducted pursuant to subsection (b)(11)(B) and such recommendations for legislative action as the Corporation may determine to be appropriate.

"(4) ANNUAL REPORTS.—

"(A) IN GENERAL.—The Oversight Board and the Corporation shall annually submit a full report of their respective operations, activities, budgets, receipts, and expenditures for the preceding 12-month period.

"(B) CONTENTS.—The report required under subparagraph (A) shall include—

"(i) audited statements and such information as is necessary to make known the financial condition and operations of the Corporation in accordance with generally accepted accounting principles;

"(ii) the Corporation's financial operating plans and forecasts (including budgets, estimates of actual and future spending, and estimates of actual and future cash obligations) taking into account the Corporation's financial commitments, guarantees, and other contingent liabilities;

"(iii) the number of minority and women investors participating in the bidding process for assisted acquisitions and the disposition of assets and the number of successful bids by such investors; and

"(iv) a list of the properties sold to State housing finance authorities (as such term is defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989), the individual purchase prices of such properties, and an estimate of the premium paid by such authorities for such properties.

"(C) SUBMISSION TO CONGRESS AND THE PRESIDENT.—The Corporation shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which such report is made but not later than June 30 of the year following such calendar year.

"(5) ADDITIONAL REPORTS.—

"(A) REPORTS REQUIRED.—In addition to the annual report required under paragraph (4), the Oversight Board and the Corporation shall submit to Congress not later than April 30 and October 31 of each calendar year, a semiannual report on the activities and efforts of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(B) CONTENTS OF REPORT.—Each semiannual report required under subparagraph (A) shall include the following information with respect to the Corporation's assets and liabilities and to the assets and liabilities of institutions described in subsection (b)(3)(A):

"(i) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(ii) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(iii) The number of employees of the Corporation, the Federal Deposit Insurance Corporation, and the Oversight Board at the beginning and end of the reporting period.

"(iv) The total amounts expended on employee wages, salaries, and overhead, during such period which are attributable to—

"(I) contracting with, supervising, or reviewing the performance of private contractors, or

"(II) managing or disposing of such assets.

"(v) A statement of the total amount expended on private contractors for the management of such assets.

"(vi) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation or the Federal Deposit Insurance Corporation.

"(vii) The total book value and total proceeds from such assets disposed of during the reporting period.

"(viii) Summary data on discounts from book value at which such assets were sold or otherwise disposed of during the reporting period.

"(ix) A list of all of the areas that carried a distressed area designation during the reporting period (including a justification for removal of areas from or addition of areas to the list of distressed areas).

"(x) An evaluation of market conditions in distressed areas and a description of any changes in conditions during the reporting period.

"(xi) Any change adopted by the Oversight Board in a minimum disposition price and the reasons for such change.

"(xii) The valuation method or methods adopted by the Oversight Board or the Corporation to value assets and the reasons for selecting such methods.

"(6) APPEARANCES BEFORE CONGRESSIONAL COMMITTEES.—

"(A) SEMIANNUAL APPEARANCE REQUIRED.—Not later than 30 days after submission of the semiannual reports required by paragraph (5), the Oversight Board shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to—

Reports.

"(i) report on the progress made during such period in resolving cases involving institutions described in subsection (b)(3)(A);

"(ii) provide an estimate of the short-term and long-term cost to the United States Government of obligations issued or incurred during such period;

"(iii) report on the progress made during such period in selling assets of institutions described in subsection (b)(3)(A) and the impact such sales are having on the local markets in which such assets are located;

Reports.

"(iv) describe the costs incurred by the Corporation in issuing obligations, managing and selling assets acquired by the Corporation;

"(v) provide an estimate of the income of the Corporation from assets acquired by the Corporation;

"(vi) provide an assessment of any potential source of additional funds for the Corporation; and

"(vii) provide an estimate of the remaining exposure of the United States Government in connection with institutions described in subsection (b)(3)(A) which, in the Oversight Board's estimation, will require assistance or liquidation after the end of such period.

"(7) APPEARANCES CONCERNING START-UP OF CORPORATION.—

"(A) APPEARANCE REQUIRED.—Before January 31, 1990, the Oversight Board and the Corporation shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate for the purposes described in subparagraph (B).

"(B) PURPOSES OF APPEARANCE.—In connection with the appearance of the Oversight Board and the Corporation required by subparagraph (A), the Oversight Board and the Corporation shall—

"(i) describe the strategic plan established for the operations of the Corporation;

"(ii) describe the policies and procedures established or proposed to be established for the Corporation, including specific measures taken to avoid political favoritism or undue influence with respect to the activities of the Corporation;

"(iii) provide any regulation proposed to be prescribed by the Corporation; and

"(iv) provide the proposed case resolution schedule.

"(l) POWER TO REMOVE; JURISDICTION.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

"(2) CORPORATION AS PARTY.—The Corporation shall be substituted as a party in any civil action, suit, or proceeding to which its predecessor in interest was a party with respect to institutions which are subject to the management agreement dated February 7, 1989, among the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation.

"(3) REMOVAL AND REMAND.—The Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia, or if the action, suit, or proceeding arises out of the actions of the Corporation with respect to an institution for which a conservator or a receiver has been appointed, the United States district court for the district where the institution's principal business is located. The removal of any action, suit, or proceeding shall be instituted—

"(A) not later than 90 days after the date the Corporation is substituted as a party, or

"(B) not later than 30 days after the date suit is filed against the Corporation, if such suit is filed after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The Corporation may appeal any order of remand entered by a United States district court.

"(m) INTERVENTION BY OVERSIGHT BOARD IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Oversight Board has the ultimate authority to supervise the Corporation and is ultimately accountable for the administration of the Corporation. The Oversight Board is authorized to remove the Federal Deposit Insurance Corporation (or any replacement) from its position as exclusive manager of the Corporation and from all of its responsibilities and authorities to act for the Corporation, in any case where the Oversight Board determines that any of the following extraordinary events has occurred:

"(A) There has been a material failure of the Corporation to adhere to the strategic plan developed pursuant to subsection (a)(14).

"(B) There has been a material failure of the Corporation to meet its financial goals, including over-commitment of financial resources.

"(C) There is evidence of fraud, abuse, gross mismanagement in the Corporation's programs or activities, or willful violation of this Act or the Corporation's policies or procedures.

"(D) There is a continuing failure to obtain consideration at least nearly equivalent to the market value of the assets sold or otherwise transferred by the Corporation.

"(2) PROCEDURE.—Any decisions made or action taken by the Oversight Board under paragraph (1) shall be made or taken at an open meeting of the Oversight Board and the Oversight Board shall document its reasons for such actions or decisions.

"(3) NOTIFICATION TO CONGRESS.—Within 30 days of the meeting of the Oversight Board described in paragraph (2) and not later than 90 days before the removal of the Federal Deposit Insurance Corporation pursuant to paragraph (1), the Oversight Board shall notify Congress of any decision made or action taken pursuant to such paragraph and provide written documentation of its decision, including any supporting documentation relied on by the Oversight Board.

"(n) OPERATION OF CORPORATION AFTER EXERCISE OF POWERS UNDER SUBSECTION (m).—If the Oversight Board exercises authority under subsection (m), the Oversight Board shall—

"(1) develop an operations and management plan for the Corporation, including a detailed description of the employment and retention procedures for the Corporation and the classification standards for employment positions for the Corporation and the compensation rates and benefits established for each class of positions, all of which shall be subject to the provisions of subsection (a)(5);

"(2) select a Board of Directors and a chief executive officer for the Corporation; and

"(3) provide to Congress, not later than 60 days before the removal of the Federal Deposit Insurance Corporation, the operations and management plan developed pursuant to paragraph (1) and the identity of the Board of Directors and the chief executive officer selected pursuant to paragraph (2).

"(o) TERMINATION.—

"(1) IN GENERAL.—The Corporation shall terminate not later than December 31, 1996. If at the time of its termination, the Corporation is acting as a conservator or receiver, the Federal Deposit Insurance Corporation shall succeed the Corporation as conservator or receiver.

"(2) CASE RESOLUTIONS TRANSFERRED.—Simultaneous with the termination of the Corporation as provided in paragraph (1), all assets and liabilities of the Corporation shall be transferred to the FSLIC Resolution Fund. Thereafter the FSLIC Resolution Fund shall transfer any net proceeds from the sale of assets to the Resolution Funding Corporation.

"(p) CONFLICT OF INTEREST.—

"(1) IN GENERAL.—

"(A) The Oversight Board and the Corporation shall each be an 'agency' for purposes of title 18, United States Code. Any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Oversight Board or the Corporation, under the direct supervision of an officer or employee of the Oversight Board or the Corporation, shall be deemed to be an employee of the Oversight Board or the Corporation for the purposes of title 18, United States Code and this Act.

"(B) Any individual who, pursuant to a contract or any other agreement, acts for or on behalf of the Corporation shall be deemed to be a public official for the purposes of section 201 of title 18, United States Code.

Regulations.

"(2) ESTABLISHMENT OF RULES.—The Oversight Board and the Corporation shall, not later than 180 days after the date of enactment of this subsection, promulgate rules and regulations governing conflict of interest, ethical responsibilities, and post-employment restrictions applicable to members, officers, and employees of the Oversight Board and the Corporation that shall be no less stringent than those applicable to the Federal Deposit Insurance Corporation.

Regulations.

"(3) USE OF CONFIDENTIAL INFORMATION.—The Oversight Board and the Corporation shall, not later than 180 days after the date of enactment of this subsection, promulgate rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities, and the use of confidential information consistent with the goals and purposes of titles 18 and 41, United States Code.

"(4) POST EMPLOYMENT.—The chief executive officer of the Corporation shall be prohibited for a period of 1 year after leaving the Corporation from holding any office, position, or employment with, or receiving remuneration from, a company (other than the Corporation) which, during the time the chief executive was employed by the Corporation, participated in any case resolution or contract with the Corporation for which such person was either responsible or in which such person was personally and substantially involved except that the chief executive officer may hold any office, position, or employment so long as the chief executive officer does not, during the 1-year period, provide advice with respect to, participate in decisions relating to, or otherwise provide assistance to such entity on the enumerated matters or receive remuneration with respect thereto from such company.

"(5) OTHER AGENCY EMPLOYEES.—Directors, officers, and employees of the Oversight Board and the Corporation who are also subject to the ethical rules of another agency or Government Corporation shall file with the Corporation a copy of any financial disclosure statement required by such other agency or corporation.

"(6) DISAPPROVAL OF CONTRACTORS.—

Regulations.

"(A) IN GENERAL.—The Oversight Board shall prescribe regulations establishing procedures for ensuring that any individual who is performing, directly or indirectly, any function or service on behalf of the Corporation meets minimum standards of competence, experience, integrity, and fitness.

"(B) PROHIBITION FROM SERVICE ON BEHALF OF CORPORATION.—The procedures established under subparagraph (A) shall provide that the Corporation shall prohibit any person who does not meet the minimum standards of competence, experience, integrity, and fitness from—

"(i) entering into any contract with the Corporation; or

"(ii) being employed by the Corporation or any person performing any service for or on behalf of the Corporation.

"(C) INFORMATION REQUIRED TO BE SUBMITTED.—The procedures established under subparagraph (A) shall require that any offer submitted to the Corporation by any person under this section and any employment application submitted to the Corporation by any person shall include—

"(i) a list and description of any instance during the preceding 5 years in which the person or company under such person's control defaulted on a material obligation to an insured depository institution; and

"(ii) such other information as the Board may prescribe by regulation.

"(D) SUBSEQUENT SUBMISSIONS.—No offer submitted to the Corporation may be accepted unless the offeror agrees that no person will be employed, directly or indirectly, by the offeror under any contract with the Corporation unless all applicable information described in subparagraph (C) with respect to any such person is submitted to the Corporation and the Corporation does not disapprove of the direct or indirect employment of such person. Any decision made by the Corporation pursuant to this paragraph shall be in its sole discretion and shall not be subject to review.

"(E) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under subparagraph (A) shall require the Corporation to prohibit any person who has—

"(i) been convicted of any felony,

"(ii) been removed from, or prohibited from participating in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency,

"(iii) demonstrated a pattern or practice of defalcation regarding obligations to insure depository institutions, or

"(iv) caused a substantial loss to Federal deposit insurance funds,

from service on behalf of the Corporation.

"(7) ABROGATION OF CONTRACTS.—The Oversight Board or the Corporation may rescind any contract with a person who—

"(A) fails to disclose a material fact to the Oversight Board or the Corporation,

"(B) would be prohibited under paragraph (6) from providing services to, receiving fees from, or contracting with the Corporation or the Oversight Board, or

"(C) has been subject to a final enforcement action by any Federal bank regulatory agency.

"(8) PRIORITY OF OVERSIGHT BOARD RULES.—To the extent that the rules established under this subsection conflict with rules of other agencies or Government corporations, officers, directors, employees, and independent contractors of the Corporation or the Oversight Board, who are also subject to the conflict of interest or ethical rules of another agency or Government corporation, shall be governed by the rules and regulations established by the Oversight Board under this subsection when acting for or on behalf of the Corporation.

"(9) DEFINITIONS.—For the purposes of this subsection—

"(A) The term 'company' has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956.

"(B) The term 'control' has the same meaning given such term under regulations promulgated by the Federal Home Loan Bank Board with respect to savings and loan holding companies as in effect on the day before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(C) The term 'Corporation' includes the Resolution Trust Corporation, the national advisory board, and the regional advisory boards.".

(b) INSPECTOR GENERAL OF THE CORPORATION.—

(1) ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting "the Oversight Board and the Board of Directors of the Resolution Trust Corporation" before "; as the case may be,"; and

(B) in paragraph (2), by inserting "the Resolution Trust Corporation," after "the Railroad Retirement Board,".

(2) POSITION AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—

(A) IN GENERAL.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"Inspector General, Resolution Trust Corporation.".

(B) APPROPRIATION.—There is hereby authorized to be appropriated such sums as may be necessary for the operation of the Office of Inspector General established by the amendment made by paragraph (1) of this subsection.

(c) Conforming Amendments to Title 5.—Section 5313 of title 5, United States Code, is amended by adding at the end thereof:

"Independent Members, Oversight Board, Resolution Trust Corporation.".

(d) Mixed-Ownership Government Corporation.—Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof:

"(L) the Resolution Trust Corporation.".

(e) Conforming Amendments to Urban Homesteading Program and Housing Act of 1949.—

(1) Urban homesteading.—Section 810(g) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(g)) is amended by adding at the end the following new paragraph:

"(3) The Secretary is authorized to reimburse the Resolution Trust Corporation, in an amount to be agreed upon by the Secretary and the Corporation, for property that the Corporation conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program approved by the Secretary.".

(2) Housing Act of 1949.—Section 517 of the Housing Act of 1949 (42 U.S.C. 1987) is amended by adding after subsection (m) the following new subsection:

USC 1487.

"(n) The Secretary may guarantee and service loans made for the purchase of eligible residential properties under section 21A(c) of the Federal Home Loan Bank Act in accordance with subsection (d) of this section and the last sentence of section 521(a)(1)(A).".

ports.
USC 1441a
e.

(f) GAO Examination of Certain FSLIC Resolutions.—Notwithstanding any other provision of this Act, the Comptroller General of the United States shall examine and monitor all insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation from January 1, 1988, through the date of the enactment of this Act, and not later than April 30, 1990, shall report to Congress with an estimate of the costs of the agreements entered into by the Corporation pursuant to such resolutions. Not less than annually thereafter, the last report being due on April 30, 1992, the Comptroller General shall provide Congress with revisions to such estimates, to take into account any new information that he obtains with regard to such agreements.

Subtitle B—Resolution Funding Corporation

SEC. 511. RESOLUTION FUNDING CORPORATION ESTABLISHED.

(a) In General.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 21A the following new section:

JSC 1441b.

"SEC. 21B. RESOLUTION FUNDING CORPORATION ESTABLISHED.

"(a) Purpose.—The purpose of the Resolution Funding Corporation is to provide funds to the Resolution Trust Corporation to enable the Resolution Trust Corporation to carry out the provisions of this Act.

"(b) Establishment.—There is established a corporation to be known as the Resolution Funding Corporation.

"(c) Management of Funding Corporation.—

"(1) DIRECTORATE.—The Funding Corporation shall be under the management of a Directorate composed of 3 members as follows:

"(A) The director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor office).

"(B) 2 members selected by the Oversight Board from among the presidents of the Federal Home Loan Banks.

"(2) TERMS.—Of the 2 members appointed under paragraph (1)(B), 1 shall be appointed for an initial term of 2 years and 1 shall be appointed for an initial term of 3 years. Thereafter, such members shall be appointed for a term of 3 years.

"(3) VACANCY.—If any member leaves the office in which such member was serving when appointed to the Directorate—

"(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

"(B) the successor to the office of such member shall serve the remainder of such member's term.

"(4) EQUAL REPRESENTATION OF BANKS.—No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms as the president of such bank.

"(5) CHAIRPERSON.—The Oversight Board shall select the chairperson of the Directorate from among the 3 members of the Directorate.

"(6) STAFF.—

"(A) NO PAID EMPLOYEES.—The Funding Corporation shall have no paid employees.

"(B) POWERS.—The Directorate may, with the approval of the Federal Housing Finance Board authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Funding Corporation in such manner as may be necessary to carry out the functions of the Funding Corporation.

"(7) ADMINISTRATIVE EXPENSES.—

"(A) IN GENERAL.—All administrative expenses of the Funding Corporation, including custodian fees, shall be paid by the Federal Home Loan Banks.

"(B) PRO RATA DISTRIBUTION.—The amount each Federal Home Loan Bank shall pay under subparagraph (A) shall be determined by the Oversight Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

"(i) the aggregate amount the Oversight Board required such bank to invest in the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) (computed without regard to paragraphs (3) or (6) of such subsection); by

"(ii) the aggregate amount the Oversight Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

"(8) REGULATION BY OVERSIGHT BOARD.—The Directorate of the Funding Corporation shall be subject to such regulations, orders, and directions as the Oversight Board may prescribe.

"(9) NO COMPENSATION FROM FUNDING CORPORATION.—Members of the Directorate of the Funding Corporation shall receive no pay, allowance, or benefit from the Funding Corporation for serving on the Directorate.

"(d) Powers of the Funding Corporation.—The Funding Corporation shall have only the powers described in paragraphs (1) through (9), subject to the other provisions of this section and such regulations, orders, and directions as the Oversight Board may prescribe:

"(1) Issue stock.—To issue nonvoting capital stock to the Federal Home Loan Banks.

"(2) Purchase capital stock; transfer amounts.—To purchase capital certificates issued by the Resolution Trust Corporation under section 21A, and to transfer amounts to the Resolution Trust Corporation pursuant to subsection (e)(8) of this section.

"(3) Issue obligations.—To issue debentures, bonds, or other obligations, and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

"(4) Impose assessments.—To impose assessments in accordance with subsection (e)(7).

"(5) Corporate seal.—To adopt, alter, and use a corporate seal.

"(6) Succession.—To have succession until dissolved.

"(7) Contracts.—To enter into contracts.

"(8) Authority to sue.—To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction.

"(9) Incidental powers.—To exercise such incidental powers not inconsistent with the provisions of this section and section 21A as are necessary and appropriate to carry out the provisions of this section.

"(e) Capitalization of Funding Corporation, etc.—

"(1) In general.—

"(A) Amount required.—The Oversight Board shall ensure that the aggregate of the amounts obtained under this subsection shall be sufficient so that—

"(i) the Funding Corporation may transfer the amounts required under paragraph (8); and

"(ii) the total of the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(B) Purchases of stock by federal home loan banks.—Each Federal Home Loan Bank shall purchase stock in the Funding Corporation at times and in amounts prescribed by the Oversight Board.

"(2) Par value; transferability.—Each share of stock issued by the Funding Corporation to a Federal Home Loan Bank shall have a par value in an amount determined by the Oversight Board and shall be transferable at not less than par value only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Oversight Board.

"(3) Maximum investment amount limitation for each federal home loan bank.—The cumulative amount of funds invested in nonvoting capital stock of the Funding Corporation by each Federal Home Loan Bank under paragraph (1) shall not at any time exceed the sum of the amounts calculated under subparagraphs (A) and (B), as adjusted in subparagraph (C), as follows:

"(A) Reserves and undivided profits on December 31, 1988.—The sum on December 31, 1988, of—

"(i) the reserves maintained by such Bank pursuant to the reserve requirement contained in the first 2 sentences of section 16 (as in effect on December 31, 1988); and

"(ii) the undivided profits of such Bank, minus the amounts invested in the capital stock of the Financing Corporation pursuant to section 21.

"(B) Subsequent additions to reserves and undivided profits.—The amount, calculated until the date on which the Funding Corporation Principal Fund is fully funded, equal to—

"(i) the sum of—

"(I) the amounts added to reserves by such Bank after December 31, 1988, pursuant to the reserve requirement contained in the first 2 sentences of section 16 (as in effect on December 31, 1988); and

"(II) the quarterly additions to undivided profits of the Bank after December 31, 1988; minus

"(ii) the amounts invested by such Bank in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 21.

"(C) Annual adjustment.—The amounts in subparagraph (B) shall be adjusted as follows:

"(i) Increase in limit.—If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is less than $300,000,000 per year, the limit for each Bank shall be increased by an amount determined by the Oversight Board by multiplying the aggregate deficiency by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

"(ii) Decrease in limit.—If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is more than $300,000,000 per year, the limit for each Bank shall be decreased by an amount determined by the Oversight Board by multiplying the aggregate excess by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

"(4) Pro rata distribution of first $1,000,000,000 invested in funding corporation by federal home loan banks.—Of the first $1,000,000,000 of the aggregate that the Federal Housing Finance Board (pursuant to section 21) or the Oversight Board (under this section) may require the Federal Home Loan Banks collectively to invest in the capital stock of the Financing Corporation or invest in the capital stock of the Funding Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to the Bank) shall invest shall be determined by the Federal Housing Finance Board or the Oversight Board (as the case may be) by multiplying the aggregate amount of such investment by all Banks by the percentage appearing in the following table for each such Bank:

Bank	Percentage
Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF $1,000,000,000.—Of any amount which the Oversight Board may require the Federal Home Loan Banks to invest in capital stock of the Funding Corporation under this subsection in excess of the $1,000,000,000 amount referred to in paragraph (4), the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

"(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members which are members of such Bank; by

"(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members which are members of a Federal Home Loan Bank.

"(6) SPECIAL PROVISIONS RELATING TO MAXIMUM AMOUNT LIMITATIONS.—

"(A) IN GENERAL.—If the amount of any Federal Home Loan Bank's allocation under paragraph (5) exceeds the maximum amount applicable with respect to such Bank (in this paragraph referred to as a 'deficient Bank') under paragraph (3) at the time of such determination (in this paragraph referred to as the 'excess amount')—

"(i) the Oversight Board shall require each Federal Home Loan Bank that is not allocated an amount under paragraph (5) that exceeds its maximum under paragraph (3) (in this paragraph referred to as a 'remaining Bank') to purchase stock in the Funding Corporation (in addition to the amount determined under paragraph (5) for such remaining Bank and subject to the maximum amount applicable with respect to such remaining Bank under paragraph (3) at the time of such determination) on behalf of the deficient Bank the amount determined under subparagraph (B);

"(ii) the Oversight Board shall require the deficient Bank to subsequently reimburse the remaining Banks out of its net earnings (or reimbursements received from other Banks) in the manner described in subparagraphs (C) and (D); and

"(iii) the requirements contained in subparagraph (D) relating to the use of net earnings shall apply to the deficient Bank until such Bank has reimbursed the remaining Banks for all of the excess amount.

"(B) Allocation of excess amount among remaining Federal Home Loan Banks.—

"(i) In general.—The amount of stock each remaining Federal Home Loan Bank shall be required to purchase under subparagraph (A)(i) is the amount determined by the Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

"(I) the cumulative amount of stock in the Funding Corporation purchased under this subsection by such remaining Bank at the time of such determination; by

"(II) the aggregate of the cumulative amounts invested under this subsection by all remaining Banks at such time.

"(ii) Reallocation.—If the allocation under this subparagraph results in a remaining Bank exceeding its maximum amount under paragraph (3), such excess amount shall be reallocated to the other remaining Bank in accordance with this subparagraph.

"(C) Reimbursement procedure.—

"(i) In general.—A Bank on whose behalf stock is purchased under subparagraph (A)(i) shall make payments annually from amounts, if any, in its reserve account (as described in subparagraph (D)) to each Bank that made payments on its behalf until a full reimbursement has been completed. A full reimbursement shall require repayment of the excess amounts invested by other Banks plus interest which shall accrue at a rate equal to the annual average cost of funds in the most recent year to all Federal Home Loan Banks and which shall begin to accrue 2 years after the investments under subparagraph (A)(i) are made.

"(ii) Determination of amounts.—The Oversight Board shall annually determine the dollar amounts of such reimbursements by distributing the amount available for such reimbursements (at the time of such determination) from the reimbursing Bank to the Banks that made purchases on its behalf according to the shares of the reimbursing Bank's excess amount that the other Banks invested.

"(D) Transfer to account for reimbursements required.—

"(i) In general.—Of the net earnings for any year of a Bank on whose behalf a purchase is made under subparagraph (A)(i) and any reimbursements received from other Banks, the amount necessary to make the reimbursements required under subparagraph (A)(ii) shall be placed in a reserve account (established in the manner prescribed by the Oversight Board), which shall be available only for such reimbursements.

"(ii) Limitation.—The total amount placed in such reserve account in any year by any Bank shall not exceed an amount equal to 20 percent of the net earnings of such Bank for such year.

"(7) Additional sources.—If each Federal Home Loan Bank has exhausted the amount applicable with respect to the Bank under paragraph (3) after purchases under paragraphs (4), (5), and (6), the amounts necessary to provide additional funding for the Funding Corporation Principal Fund shall be obtained from the following sources:

"(A) Assessments.—The Funding Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 7 of the Federal Deposit Insurance Act) except that—

"(i) the maximum amount of the aggregate amount assessed shall be the amount of additional funds necessary to fund the Funding Corporation Principal Fund;

"(ii) the sum of—

"(I) the amount assessed under this subparagraph; and

"(II) the amount assessed by the Financing Corporation under section 21;

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(iii) the Financing Corporation shall have first priority to make the assessment; and

"(iv) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in clause (ii) of this subparagraph.

"(B) Receivership proceeds.—To the extent the amounts available pursuant to subparagraph (A) are insufficient to fund the Funding Corporation Principal Fund, the Federal Deposit Insurance Corporation shall transfer amounts to the Funding Corporation from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund from receiverships.

"(8) Transfer to rtc.—The Funding Corporation shall transfer to the Resolution Trust Corporation $1,200,000,000 in fiscal year 1989.

"(f) Obligations of Funding Corporation.—

"(1) Issuance.—The Funding Corporation may issue bonds, notes, debentures, and similar obligations in an aggregate amount not to exceed $30,000,000,000. No obligation may be issued under this paragraph unless, at the time of issuance, the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation that will be outstanding following such issuance.

"(2) Interest payments.—The Funding Corporation shall pay the interest due on such obligations from funds obtained for such interest payments from the following sources:

"(A) Earnings on certain assets.—Earnings on assets of the Funding Corporation which are not invested in the Funding Corporation Principal Fund shall be used for interest payments on outstanding debt of the Funding Corporation.

"(B) PROCEEDS FROM RESOLUTION TRUST CORPORATION.—To the extent the amounts available pursuant to subparagraph (A) are insufficient to cover the amount of interest payments, the Resolution Trust Corporation shall pay to the Funding Corporation—

"(i) the liquidating dividends and payments made on claims received by the Resolution Trust Corporation from receiverships to the extent such proceeds are determined by the Oversight Board to be in excess of funds presently necessary for resolution costs; and

"(ii) any proceeds from warrants and participations acquired by the Resolution Trust Corporation.

"(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—To the extent the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, the Federal Home Loan Banks shall pay to the Funding Corporation each calendar year the aggregate amount of $300,000,000 minus the amounts required in such year for Financing Corporation principal payments (pursuant to section 21) and the amounts required in such year by the Funding Corporation pursuant to subsection (e). Each Bank's individual share of any amounts required to be paid by the Banks under this subparagraph shall be determined as follows:

"(i) AMOUNTS UP TO 20 PERCENT OF NET EARNINGS.—Each Federal Home Loan Bank shall pay an equal percentage of its net earnings for the year for which such amount is required to be paid, up to a maximum of 20 percent of net earnings.

"(ii) AMOUNTS IN EXCESS OF 20 PERCENT OF NET EARNINGS.—If the aggregate amount required to be paid by the Federal Home Loan Banks under this subparagraph for any year exceeds 20 percent of the aggregate net earnings of the Banks for such year, each Bank shall pay 20 percent of its net earnings for such year as provided in clause (i), and each Bank's individual share of the excess of the required amount over 20 percent of the aggregate net earnings of the Banks for such year shall be determined by dividing—

"(I) the average month-end level in the prior year of advances outstanding by such Bank to Savings Associations Insurance Fund members; by

"(II) the average month-end level in the prior year of advances outstanding by all such Banks to Savings Associations Insurance Fund members.

"(D) PROCEEDS FROM SALE OF ASSETS.—To the extent the amounts available pursuant to subparagraphs (A), (B), and (C) are insufficient to cover the amount of interest payments, the FSLIC Resolution Fund shall transfer to the Funding Corporation any net proceeds from the sale of assets received from the Resolution Trust Corporation, which shall be used by the Funding Corporation to pay such interest.

"(E) TREASURY BACKUP.—

"(i) IN GENERAL.—To the extent the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, the Secretary of the Treasury shall pay to the Funding Corporation the additional amount due, which shall be used by the Funding Corporation to pay such interest.

"(ii) LIABILITY OF FUNDING CORPORATION.—In each instance where the Secretary is required to make a payment under this subparagraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

"(iii) APPROPRIATION OF FUNDS.—There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out clause (i).

"(3) PRINCIPAL PAYMENTS.—On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund.

"(4) PROCEEDS TO BE TRANSFERRED TO RESOLUTION TRUST CORPORATION.—Subject to terms and conditions approved by the Oversight Board, the proceeds (less any discount, plus any premium, net of issuance costs) of any obligation issued by the Funding Corporation shall be used to—

"(A) purchase the capital certificates issued by the Resolution Trust Corporation under section 21A; or

"(B) refund any previously issued obligation the proceeds of which were transferred in the manner described in subparagraph (A).

"(5) INVESTMENT OF UNITED STATES FUNDS IN OBLIGATIONS.—Obligations issued under this section by the Funding Corporation, at the direction of the Oversight Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

"(6) MARKET FOR OBLIGATIONS.—All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Funding Corporation.

"(7) TAX EXEMPT STATUS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), obligations of the Funding Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 13 of this Act.

"(B) EXCEPTION.—The Funding Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31, United States Code (relating to determination of tax status of interest on obligations).

"(8) OBLIGATIONS NOT EXEMPT SECURITIES.—

"(A) IN GENERAL.—For purposes of the laws administered by the Securities and Exchange Commission, obligations of the Funding Corporation—

"(i) shall not be considered to be securities issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States; and

"(ii) shall not be considered to be 'exempted securities' within the meaning of section 3(a)(12)(A)(i) of the Securities Exchange Act of 1934, except that such obligations shall be considered to be exempted securities for purposes of section 15 of such Act.

"(B) AUTHORITY OF COMMISSION.—Notwithstanding subparagraph (A), the Securities and Exchange Commission may, by rule or order, consistent with the public interest and the protection of investors, exempt securities issued by the Funding Corporation from the registration requirements of the Securities Act of 1933, subject to such terms and conditions as the Commission may prescribe.

"(9) MINORITY PARTICIPATION IN PUBLIC OR NEGOTIATED OFFERINGS.—The Oversight Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public or negotiated offering of obligations issued under this section.

"(10) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Obligations of the Funding Corporation shall not be obligations of, or guaranteed as to principal by, the Federal Home Loan Bank System, the Federal Home Loan Banks, the United States, or the Resolution Trust Corporation and the obligations shall so plainly state. The Secretary shall pay interest on such obligations as required pursuant to this subsection.

"(g) USE AND DISPOSITION OF ASSETS OF FUNDING CORPORATION NOT TRANSFERRED TO RESOLUTION TRUST CORPORATION.—

"(1) IN GENERAL.—Subject to regulations, restrictions, and limitations prescribed by the Oversight Board, assets of the Funding Corporation which are not required to be invested in capital certificates issued by the Resolution Trust Corporation under section 21A and are not needed for current interest payments shall be invested in direct obligations of the United States issued by the Secretary.

"(2) SEPARATE ACCOUNT FOR ZERO COUPON INSTRUMENTS HELD TO ENSURE PAYMENT OF PRINCIPAL.—Except as provided in subsection (e)(8), the Funding Corporation shall invest amounts received pursuant to subsection (e) in, and hold in a separate account to be known as the Funding Corporation Principal Fund, noninterest bearing instruments—

"(A) which are direct obligations of the United States issued by the Secretary; and

"(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

"(h) MISCELLANEOUS PROVISIONS.—

"(1) TREATMENT FOR CERTAIN PURPOSES.—Except as provided in subsection (f)(7)(B), the Funding Corporation shall be treated as a Federal Home Loan Bank for purposes of section 13 (to the extent such section relates to State, municipal, and local taxation) and section 23.

"(2) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Funding Corporation.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO GOVERNMENT CORPORATIONS.—The Funding Corporation shall be treated, for purposes of sections 9105, 9107, and 9108 of title 31, United States Code, as a mixed-ownership Government corporation which has capital of the Government.

"(4) JURISDICTION AND POWER TO REMOVE.—

"(A) FEDERAL COURT JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Funding Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

"(B) REMOVAL.—The Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"(i) ANNUAL REPORT.—

"(1) IN GENERAL.—The Oversight Board shall annually submit a full report of the operations, activities, budget, receipts, and expenditures of the Funding Corporation for the preceding 12-month period.

"(2) CONTENTS.—The report required under paragraph (1) shall include—

"(A) audited statements and any information necessary to make known the financial condition and operations of the Funding Corporation in accordance with generally accepted accounting principles;

"(B) the financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) of the Funding Corporation taking into account its financial commitments, guarantees, and other contingent liabilities; and

"(C) the results of the annual audit of the financial transactions of the Funding Corporation conducted by the Comptroller General pursuant to section 9105(a) of title 31, United States Code.

"(3) SUBMISSION TO CONGRESS AND PRESIDENT.—The Oversight Board shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following such calendar year.

"(j) TERMINATION OF FUNDING CORPORATION.—

"(1) IN GENERAL.—The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

"(2) AUTHORITY OF OVERSIGHT BOARD TO CONCLUDE AFFAIRS OF FUNDING CORPORATION.—Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Oversight

Board may exercise on behalf of the Funding Corporation any power of the Funding Corporation which the Oversight Board determines to be necessary to settle and conclude the affairs of the Funding Corporation.

"(k) DEFINITIONS.—For purposes of this section:

"(1) ADMINISTRATIVE EXPENSES.—The term 'administrative expenses' does not include—

"(A) any interest on, or any redemption premium with respect to, any obligation of the Funding Corporation; or

"(B) issuance costs.

"(2) CUSTODIAN FEE.—The term 'custodian fee' means—

"(A) any fee incurred by the Funding Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under subsection (g); and

"(B) any other expense incurred by the Funding Corporation in connection with the establishment or maintenance of such account.

"(3) FUNDING CORPORATION.—The term 'Funding Corporation' means the Resolution Funding Corporation established in subsection (b).

"(4) FUNDING CORPORATION PRINCIPAL FUND.—The term 'Funding Corporation Principal Fund' means the separate account established under subsection (g)(2).

"(5) ISSUANCE COSTS.—The term 'issuance costs'—

"(A) means issuance fees and commissions incurred by the Funding Corporation in connection with the issuance or servicing of any obligation of the Funding Corporation; and

"(B) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Funding Corporation in connection with issuing any obligation.

"(6) NET EARNINGS.—The term 'net earnings' means net earnings without reduction for chargeoffs or expenses incurred by a Federal Home Loan Bank for the purchase of capital stock of the Financing Corporation or payments relating to the Funding Corporation required by the Oversight Board under subsections (e) and (f).

"(7) OVERSIGHT BOARD.—The term 'Oversight Board' means—

"(A) the Oversight Board of the Resolution Trust Corporation under section 21A; and

"(B) after the termination of the Resolution Trust Corporation—

"(i) the Secretary of the Treasury;

"(ii) the Chairman of the Board of Governors of the Federal Reserve System; and

"(iii) the Secretary of Housing and Urban Development.

"(8) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means a Savings Association Insurance member as such term is defined by section 7(l) of the Federal Deposit Insurance Act.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(10) UNDIVIDED PROFITS.—The term 'undivided profits' means earnings retained after dividends have been paid minus the sum of—

"(A) that portion required to be added to reserves maintained pursuant to the first 2 sentences of section 16; and

"(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 21(d)(7).

"(l) REGULATIONS.—The Oversight Board may prescribe any regulations necessary to carry out this section.".

(b) FUNDING CORPORATION AS MIXED-OWNERSHIP GOVERNMENT CORPORATION.—

(1) IN GENERAL.—Section 9101(2) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(M) the Resolution Funding Corporation.".

(2) ANNUAL GAO AUDIT.—

(A) IN GENERAL.—Section 9105(a)(2) of title 31, United States Code, is amended by adding at the end the following new sentence: "The Comptroller General shall audit the Resolution Funding Corporation annually.".

(B) CONFORMING AMENDMENT.—Section 9105(a)(2) of title 31, United States Code, is amended by striking "Federal Savings and Loan Insurance Corporation and".

SEC. 512. FINANCING CORPORATION.

Section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is amended—

(1) by striking "insured institution" each place it appears and inserting "Savings Association Insurance Fund member";

(2) by striking "Federal Home Loan Bank Board" and "Board" each place they appear and inserting "Federal Housing Finance Board";

(3) in subsection (c)(2), by inserting before the period the following: "prior to the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and thereafter to transfer the proceeds of any obligation issued by the Financing Corporation to the FSLIC Resolution Fund";

(4) in subsection (c)(9) by striking "or section 402(b) of the National Housing Act";

(5) by amending the portion of subsection (d)(4) appearing before the table to read as follows: "Of the first $1,000,000,000 in the aggregate which the Oversight Board pursuant to section 21B or the Federal Housing Finance Board under this section (as the case may be) may require the Federal Home Loan Banks collectively to invest in the stock of the Funding Corporation or invest in the capital stock of the Financing Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Oversight Board or the Federal Housing Finance Board (as the case may be) by multiplying the aggregate amount of such payment or investment by all Banks by the percentage appearing in the following table for each such Bank:";

(6) in subsection (d)(5), by striking "$1,000,000,000 which the Board" and inserting "the $1,000,000,000 amount referred to in paragraph (4) which the Federal Housing Finance Board";

(7) in subsection (d)(6)(A)(iii), by striking "available for dividends";

(8) in subsection (d)(6)(D), by striking "available for dividends";

(9) in subsection (d)(6)(E), by striking "available for dividends";

(10) by striking subsection (d)(6)(F) and adding at the end of subsection (l) the following:

"(4) Net earnings defined.—The term 'net earnings' means net earnings without reduction for any chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation or the purchase of stock of the Funding Corporation required by the Oversight Board under subsections (e) and (f) of section 21B.";

(11) in subsection (e)(3)(A)—

(A) by striking "used to";

(B) by inserting "used to" before "purchase" and "refund"; and

(C) by inserting before the semicolon the following: "prior to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and thereafter transferred to the FSLIC Resolution Fund";

(12) in subsection (e)—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (10) as paragraphs (2) through (9), respectively, and

(B) in paragraph (6) as redesignated, by striking "the Federal Savings and Loan Insurance Corporation" and inserting "the FSLIC Resolution Fund";

(13) by striking subsection (f) and inserting the following:

"(f) Sources of Funds for Interest Payments; Financing Corporation Assessment Authority.—The Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued hereunder from the following sources:

"(1) Preenactment assessments.—The Financing Corporation assessments which were assessed on insured institutions pursuant to this section as in effect prior to the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(2) New assessment authority.—To the extent the amounts available pursuant to paragraph (1) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, the Financing Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation under section 7 of the Federal Deposit Insurance Act), except that—

"(A) the sum of—

"(i) the amount assessed under this paragraph; and

"(ii) the amount assessed by the Funding Corporation under section 21B;

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

"(B) the Financing Corporation shall have first priority to make the assessment; and

"(C) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in subparagraph (A) of this paragraph.

"(3) RECEIVERSHIP PROCEEDS.—To the extent the amounts available pursuant to paragraphs (1) and (2) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, and if the funds are not required by the Resolution Funding Corporation to provide funds for the Funding Corporation Principal Fund under section 21B, the Federal Deposit Insurance Corporation shall transfer to the Financing Corporation, from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund (established under section 11A of the Federal Deposit Insurance Act) from receiverships, the remaining amount of funds necessary for the Financing Corporation to make interest payments.";

(14) in subsection (g)(1) by striking "National Housing Act," and inserting "National Housing Act before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and after such date in capital certificates issued by the FSLIC Resolution Fund,";

(15) in subsection (g), by inserting the following at the end of paragraph (2): "For purposes of the foregoing, the Financing Corporation shall be deemed to hold noninterest bearing instruments that it lends temporarily to primary United States Treasury dealers in order to enhance market liquidity and facilitate deliveries, provided that United States Treasury securities of equal or greater value have been delivered as collateral.";

(16) in subsection (j), by striking subparagraph (A) of paragraph (1) and inserting the following:

"(A) the maturity and full payment of all obligations issued by the Financing Corporation pursuant to this section; or"; and

(17) in subsection (l)—

(A) by striking paragraph (1) and inserting the following:

"(1) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term 'Savings Association Insurance Fund member' means a savings association which is a Savings Association Insurance Fund member as defined by section 7(l) of the Federal Deposit Insurance Act."; and

(B) by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

TITLE VI—THRIFT ACQUISITION ENHANCEMENT PROVISIONS

SEC. 601. ACQUISITION OF THRIFT INSTITUTIONS BY BANK HOLDING COMPANIES.

(a) IN GENERAL.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(i) Acquisition of Savings Associations.—

"(1) In general.—The Board may approve an application by any bank holding company under subsection (c)(8) to acquire any savings association in accordance with the requirements and limitations of this section.

"(2) Prohibition on tandem restrictions.—In approving an application by a bank holding company to acquire a savings association, the Board shall not impose any restriction on transactions between the savings association and its holding company affiliates, except as required under sections 23A and 23B of the Federal Reserve Act or any other applicable law.".

12 USC 1843 note.

(b) Modification of Prior Approvals.—If the Board of Governors of the Federal Reserve System, in approving an application by a bank holding company to acquire a savings association, imposed any restriction that would have been prohibited under section 4(i)(2) of the Bank Holding Company Act of 1956 (as added by subsection (a) of this section) if that section had been in effect when the application was approved, the Board shall modify that approval in a manner consistent with that section.

SEC. 602. TECHNICAL AMENDMENTS TO THE BANK HOLDING COMPANY ACT.

(a) Definitions.—Section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)) is amended to read as follows:

"(j) Definition of Savings Associations and Related Term.— The term 'savings association' or 'insured institution' means—

"(1) any Federal savings association or Federal savings bank;

"(2) any building and loan association, savings and loan association, homestead association, or cooperative bank if such association or cooperative bank is a member of the Savings Association Insurance Fund; and

"(3) any savings bank or cooperative bank which is deemed by the Director of the Office of Thrift Supervision to be a savings association under section 10(l) of the Home Owners' Loan Act.".

(b) Insurance Required.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking "an insured bank as defined in section 3(h)" and inserting "an insured depository institution as defined in section 3".

SEC. 603. PASSIVE INVESTMENTS BY COMPANIES CONTROLLING CERTAIN NONBANK BANKS.

(a) In General.—Section 4(f)(2)(A)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)(ii)) is amended to read as follows:

"(ii) acquires control of more than 5 percent of the shares or assets of an additional bank or a savings association other than—

"(I) shares held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

"(II) shares held by any person as a bona fide fiduciary solely for the benefit of employees of either the company described in paragraph (1) or any subsidiary of that company and the beneficiaries of those employees;

"(III) shares held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

"(IV) shares held in an account solely for trading purposes;

"(V) shares over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

"(VI) loans or other accounts receivable acquired in the normal course of business;

"(VII) shares or assets acquired in securing or collecting a debt previously contracted in good faith, during the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Board may permit if the Board determines that such an extension will not be detrimental to the public interest;

"(VIII) shares or assets of a savings association described in paragraph (10) or (12) of this subsection;

"(IX) shares of a savings association held by any insurance company, as defined in section 2(a)(17) of the Investment Company Act of 1940, except as provided in paragraph (11); and

"(X) shares issued in a qualified stock issuance under section 10(q) of the Home Owners' Loan Act;

except that the aggregate amount of shares held under this clause (other than under subclauses (I), (II), (III), (IV), (V), and (VIII)) may not exceed 15 percent of all outstanding shares or of the voting power of a savings association; or".

(b) TECHNICAL AMENDMENTS.—

(1) Section 4(f)(10) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(10)) is amended—

(A) by striking "and (ii)(V)" and inserting "and (ii)(VIII)"; and

(B) in subparagraph (A), by inserting "or section 13(k) of the Federal Deposit Insurance Act" after "National Housing Act".

(2) Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following:

"(11) SHARES HELD BY INSURANCE AFFILIATES.—Shares described in clause (ii)(IX) of paragraph (2)(A) shall not be excluded for purposes of clause (ii) of such paragraph if—

"(A) all shares held under such clause (ii)(IX) by all insurance company affiliates of such savings association in the aggregate exceed 5 percent of all outstanding shares or of the voting power of the savings association; or

"(B) such shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association.".

SEC. 604. PURCHASE OF MINORITY INTEREST IN UNDERCAPITALIZED SAVINGS ASSOCIATIONS BY HOLDING COMPANIES ALLOWED.

(a) AMENDMENT TO DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following new paragraph:

"(9) Any savings association (as defined in section 10(a)(1)(A) of the Home Owners' Loan Act or any savings and loan holding company (as defined in section 10(a)(1)(D) of such Act) which has issued stock in connection with a qualified stock issuance pursuant to section 10(q) of such Act, except that this paragraph shall apply only with respect to service as a single management official of such savings association or holding company, or any subsidiary of such savings association or holding company, by a single management official of the savings and loan holding company which purchased the stock issued in connection with such qualified stock issuance, and shall apply only when the Director of the Office of Thrift Supervision has determined that such service is consistent with the purposes of this Act and the Home Owners' Loan Act.".

(b) AMENDMENTS TO BANK HOLDING COMPANY ACT.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) by adding at the end thereof the following new paragraphs:

"(12) EXEMPTION UNAFFECTED BY CERTAIN OTHER ACQUISITIONS.—For purposes of clauses (i) and (ii)(VIII) of paragraph (2)(A), an insured institution is described in this paragraph if the insured institution was acquired (or any shares or assets of such institution were acquired) by a company described in paragraph (1)—

"(A) from the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision, in any capacity; or

"(B) in an acquisition in which the insured institution has been found to be in danger of default (as defined in section 3 of the Federal Deposit Insurance Act) by the appropriate Federal or State authority.

"(13) SPECIAL RULE RELATING TO SHARES ACQUIRED IN A QUALIFIED STOCK ISSUANCE.—A company described in paragraph (1) that holds shares issued in a qualified stock issuance pursuant to section 10(q) of the Home Owners' Loan Act by any savings association or savings and loan holding company (neither of which is a subsidiary) shall not be deemed to control such savings association or savings and loan holding company solely because such company holds such shares unless—

"(A) the company fails to comply with any requirement or condition imposed by paragraph (2)(A)(ii)(X) or section 10(q) of the Home Owners' Loan Act with respect to such shares; or

"(B) the shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company."; and

(2) in clause (i) of paragraph (2)(A), by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (10) or (12)".

TITLE VII—FEDERAL HOME LOAN BANK SYSTEM REFORMS

Subtitle A—Federal Home Loan Bank Act Amendments

SEC. 701. DEFINITIONS.

(a) IN GENERAL.—Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) BOARD.—The term 'Board' means the Federal Housing Finance Board established under section 2A.

"(2)(A) BANK.—The term 'Federal Home Loan Bank' or 'Bank' means a bank established under the authority of the Federal Home Loan Bank Act.

"(B) BANK SYSTEM.—The term 'Federal Home Loan Bank System' means the Federal Home Loan Banks under the supervision of the Board.";

(2) in paragraph (4) by striking "(except when used in reference to the member of the Board)"; and

(3) by striking paragraph (9) and adding at the end the following:

"(9) SAVINGS ASSOCIATION.—The term 'savings association' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

"(10) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Board.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(12) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' means—

"(A) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), and

"(B) except as used in sections 21A and 21B, an insured credit union (as defined in section 101 of the Federal Credit Union Act).".

(b) CHANGE IN TERMS.—

12 USC 1421 *et seq.*

(1) IN GENERAL.—Except as otherwise specifically provided in this title, the Federal Home Loan Bank Act is amended by striking "board" (other than in section 7) and "Federal Home Loan Bank Board" each place such terms appear and inserting "Board".

12 USC 1421 *et seq.*

(2) CHAIRPERSON.—The Federal Home Loan Bank Act is amended by striking "Chairman" and "chairman" each place such terms appear and inserting "Chairperson" and "chairperson".

(3) EXCEPTIONS.—

(A) GENERAL RULE.—The amendments made by paragraph (1) shall not apply to sections 18(c), 21A, and 21B of the Federal Home Loan Bank Act.

(B) CONFORMING AMENDMENT.—Section 18(c) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)) is amended by striking "Federal Home Loan Bank Board" and "board" each place such terms appear and inserting "Director of the Office of Thrift Supervision".

(c) TECHNICAL AMENDMENTS.—Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) in subsection (e)(2)(C), by inserting "Federal Home Loan" before "Banks,"; and

(2) in the first sentence of the third paragraph of subsection (i) by inserting "Federal" before "Home Loan Bank System".

SEC. 702. FEDERAL HOUSING FINANCE BOARD ESTABLISHED.

(a) In General.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 2 the following new sections:

"SEC. 2A. FEDERAL HOUSING FINANCE BOARD.

12 USC 1422a.

"(a) Establishment.—

"(1) In general.—There is established the Federal Housing Finance Board, which shall succeed to the authority of the Federal Home Loan Bank Board with respect to the Federal Home Loan Banks.

"(2) Status.—The Board shall be an independent agency in the executive branch of the Government.

"(3) Duties.—The duties of the Board shall be—

"(A) to supervise the Federal Home Loan Banks,

"(B) to ensure that the Federal Home Loan Banks carry out their housing finance mission,

"(C) to ensure the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets, and

"(D) to ensure the Federal Home Loan Banks operate in a safe and sound manner.

"(b) Management.—

"(1) In general.—The management of the Board shall be vested in a Board of Directors consisting of 5 directors as follows:

"(A) The Secretary who shall serve without additional compensation.

"(B) Four citizens of the United States, appointed by the President, by and with the advice and consent of the Senate, each of whom shall hold office for a term of 7 years.

"(2) Provisions relating to appointed directors.—

"(A) In general.—The directors appointed pursuant to paragraph (1)(B) shall be from among persons with extensive experience or training in housing finance or with a commitment to providing specialized housing credit. An appointed director shall not hold any other appointed office during his or her term as director. Not more than 3 directors shall be members of the same political party. Not more than 1 appointed director shall be from any single district of the Federal Home Loan Bank System. Nominations pursuant to this subparagraph shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs.

"(B) Consumer representative.—At least 1 director shall be chosen from an organization with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

"(C) Limitations on conflicts of interest.—No director may—

"(i) serve as a director or officer of any Federal Home Loan Bank or any member of any Bank; or

"(ii) hold shares of, or any other financial interest in, any member of any such Bank.

"(3) Initial terms.—Notwithstanding paragraph (2), of the directors first appointed—

"(A) one shall be appointed for a term of 1 year;

"(B) one shall be appointed for a term of 3 years; and

"(C) one shall be appointed for a term of 5 years.

"(c) CHAIRPERSON; TRANSITIONAL PROVISIONS.—

President of U.S.

"(1) IN GENERAL.—The President shall designate 1 of the appointed directors to be the Chairperson of the Board. The Chairperson shall designate another director to serve as Acting Chairperson during the absence or disability of the Chairperson.

"(2) TRANSITIONAL PROVISION.—Beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, until such time that at least 2 directors are appointed and confirmed pursuant to subsection (b), the Secretary shall act for all purposes and with the full powers of the Board of Directors. The Secretary may utilize the services of employees from the Department of Housing and Urban Development to perform services for the Board of Directors during such transition period.

"(d) VACANCIES.—

"(1) IN GENERAL.—Any vacancy on the Board of Directors shall be filled in the manner in which the original appointment was made. Any director appointed to fill a vacancy occurring before the expiration of the term for which such director's predecessor was appointed shall be appointed only for the remainder of such term. Each director may continue to serve until a successor has been appointed and qualified.

"(2) THE SECRETARY.—In the event of a vacancy in the office of Secretary or during the absence or disability of the Secretary, the Acting Secretary shall act as a director in place of the Secretary.

12 USC 1422b.

"SEC. 2B. POWERS AND DUTIES.

"(a) GENERAL POWERS.—The Board shall have the following powers:

"(1) To supervise the Federal Home Loan Banks and to promulgate and enforce such regulations and orders as are necessary from time to time to carry out the provisions of this Act.

"(2) To suspend or remove for cause a director, officer, employee, or agent of any Federal Home Loan Bank or joint office. The cause of such suspension or removal shall be communicated in writing to such director, officer, employee, or agent and to such Bank or joint office. Notwithstanding any other provision of this Act, no officer, employee, or agent of a Bank or joint office shall be a Federal officer or employee under any definition of either term in title 5, United States Code.

"(3) To determine necessary expenditures of the Board under this Act and the manner in which such expenditures shall be incurred, allowed, and paid.

"(4) To use the United States mails in the same manner and under the same conditions as a department or agency of the United States.

"(b) STAFF.—

"(1) BOARD STAFF.—Subject to title IV of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board may employ, direct, and fix the compensation and number of employees, attorneys, and agents of the Federal Housing Finance Board, except that in no event shall the Board delegate any function to any employee, administrative unit of any Bank, or joint office of the Federal Home Loan Bank System. The prohibition contained in the preceding sentence shall not apply to the delegation of ministerial functions including issuing consolidated obligations pursuant to section 11(b). In directing and fixing such compensation, the Board shall consult with and maintain comparability with the compensation at the Federal bank regulatory agencies. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States, except the Chairperson and other Directors shall be compensated as prescribed in sections 5314 and 5315 of title 5, United States Code, respectively.

"(2) ABOLITION OF JOINT OFFICES.—The joint or collective offices of the Federal Home Loan Bank System, except for the Office of Finance, are hereby abolished.

"(c) RECEIPTS OF THE BOARD.—Receipts of the Board derived from assessments levied upon the Federal Home Loan Banks and from other sources (other than receipts from the sale of consolidated Federal Home Loan Bank bonds and debentures issued under section 11 of this Act) shall be deposited in the Treasury of the United States. Salaries of the directors and other employees of the Board and all other expenses thereof may be paid from such assessments or other sources and shall not be construed to be Government Funds or appropriated monies, or subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or any other authority.

"(d) ANNUAL REPORT.—The Board shall make an annual report to the Congress.".

(b) AUDITS AND REPORTS.—Section 20 of the Federal Home Loan Bank Act (12 U.S.C. 1440) is amended by adding at the end the following: "In addition to such examinations, the Comptroller General may audit or examine the Board and the Banks, to determine the extent to which the Board and the Banks are fairly and effectively fulfilling the purposes of this Act.".

(c) APPOINTMENT OF INSPECTOR GENERAL.—Section 8E(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "Federal Home Loan Bank Board," and inserting "Federal Housing Finance Board,".

SEC. 703. TERMINATION OF THE FEDERAL HOME LOAN BANK BOARD.

(a) IN GENERAL.—Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is hereby repealed.

SEC. 704. ELIGIBILITY FOR MEMBERSHIP.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended to read as follows:

"(a) CRITERIA FOR ELIGIBILITY.—

"(1) IN GENERAL.—Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, savings bank, or any insured depository institution (as defined in section 2 of this Act), shall be eligible to become a member of a Federal Home Loan Bank if such institution—

"(A) is duly organized under the laws of any State or of the United States;

"(B) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States; and

"(C) makes such home mortgage loans as, in the judgment of the Board, are long-term loans (except that in the case of a savings bank, this subparagraph applies only if, in the judgment of the Board, its time deposits, as defined in section 19 of the Federal Reserve Act, warrant its making such loans).

"(2) QUALIFIED THRIFT LENDER.—An insured depository institution that is not a member on January 1, 1989, may become a member of a Federal Home Loan Bank only if—

"(A) the insured depository institution has at least 10 percent of its total assets in residential mortgage loans;

"(B) the insured depository institution's financial condition is such that advances may be safely made to such institution; and

"(C) the character of its management and its home-financing policy are consistent with sound and economical home financing.

An insured depository institution commencing its initial business operations after January 1, 1989, may become a member of a Federal Home Loan Bank if it complies with regulations and orders prescribed by the Board for the 10 percent asset requirement (described in the preceding sentence) within one year after the commencement of its operations.".

(c) REPEAL OF SECTION 27.—Section 27 of the Federal Home Loan Bank Act (12 U.S.C. 1447) is hereby repealed.

SEC. 705. REPEAL OF PROVISION RELATING TO RATE OF INTEREST ON DEPOSITS.

Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is hereby repealed.

SEC. 706. CAPITAL STOCK.

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended—

(1) by striking subsections (a), (e), (f), and (g) and redesignating subsections (b), (c), (d), (h), (i), (j), (k), and (m) as subsections (a), (b), (c), (d), (e), (f), (g), and (h), respectively;

(2) by striking the second sentence of subsection (e) (as redesignated by paragraph (1) of this section) and inserting the following: "If any member's membership in a Federal Home Loan Bank is terminated, the indebtedness of such member to the Federal Home Loan Bank shall be liquidated in an orderly manner (as determined by the Federal Home Loan Bank), and upon completion of such liquidation, the capital stock in the Federal Home Loan Bank owned by such member shall be surrendered and canceled. Any such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties or other fees applicable to such prepayment."; and

(3) in subsection (h) (as redesignated by paragraph (1) of this section), by striking "charter" and all that follows through the end period and inserting "charter as a Federal savings association (as defined in section 3 of the Federal Deposit Insurance Act).".

SEC. 707. ELECTION OF BANK DIRECTORS.

Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

(1) in subsection (a)—

(A) by striking "appointed by the Federal Home Loan Bank Board referred to in subsection (b) of section 17, hereinafter in this section referred to as the Board" and inserting "appointed by the Board referred to in section 2A",

(B) by inserting after the last sentence the following: "At least 2 of the Federal Home Loan Bank directors who are appointed by the Board shall be representatives chosen from organizations with more than a 2-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections. No Federal Home Loan Bank director who is appointed pursuant to this subsection may, during such Bank director's term of office, serve as an officer of any Federal Home Loan Bank or a director or officer of any member of a Bank, or hold shares, or any other financial interest in, any member of a Bank.";

(2) by inserting after the first sentence of subsection (b) the following: "No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director.";

(3) by amending subsection (f) to read as follows:

"(f) VACANCIES.—

"(1) IN GENERAL.—A Bank director appointed or elected to fill a vacancy shall be appointed or elected for the unexpired term of his or her predecessor in office.

"(2) APPOINTED BANK DIRECTORS.—In the event of a vacancy in any appointive Bank directorship, such vacancy shall be filled through appointment by the Board for the unexpired term. If any appointive Bank director shall cease to have the qualifications set forth in subsection (a), the office held by such person shall immediately become vacant, but such person may continue to act as a Bank director until his or her successor assumes the vacated office or the term of such office expires, whichever occurs first.

"(3) ELECTED BANK DIRECTORS.—In the event of a vacancy in any elective Bank directorship, such vacancy shall be filled by an affirmative vote of a majority of the remaining Bank directors, regardless of whether such remaining Bank directors constitute a quorum of the Bank's board of directors. A Bank director so elected shall satisfy the requirements for eligibility which were applicable to his predecessor. If any elective Bank director shall cease to have any qualification set forth in this section, the office held by such person shall immediately become vacant, and such person shall not continue to act as a Bank director."; and

(4) by adding at the end the following new subsection:

"(k) INDEMNIFICATION OF DIRECTORS, OFFICERS, AND EMPLOYEES.—The board of directors of each Bank shall determine the terms and conditions under which such Bank may indemnify its directors, officers, employees or agents.".

SEC. 708. REPEAL OF PROVISIONS RELATING TO CERTAIN POWERS OF THE FEDERAL HOME LOAN BANK BOARD.

Section 19 of the Federal Home Loan Bank Act (12 U.S.C. 1439) is hereby repealed.

SEC. 709. POWERS AND DUTIES OF BANKS.

Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended—

(1) in subsection (e)(1), by inserting "incidental to activities" after "not";

(2) in subsection (f), by striking out "or whenever in the judgment of at least 4 members of the board an emergency exists requiring such action";

(3) by amending subsection (k) to read as follows:

"(k) BANK LOANS TO SAIF.—

"(1) LOANS AUTHORIZED.—Subject to paragraph (3), the Federal Home Loan Banks may, upon the request of the Federal Deposit Insurance Corporation, make loans to such Corporation for the use of the Savings Association Insurance Fund.

"(2) LIABILITY OF THE FUND.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be a direct liability of the Savings Association Insurance Fund.

"(3) INTEREST ON AND SECURITY FOR SUCH LOANS.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall—

"(A) bear a rate of interest not less than such Bank's current marginal cost of funds, taking into account the maturities involved; and

"(B) be adequately secured.".

SEC. 710. ELIGIBILITY OF BORROWERS TO SECURE ADVANCES.

(a) IN GENERAL.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended by striking "or nonmember borrower" in the first sentence.

(b) CONFORMING AMENDMENTS.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

12 USC 1422, 1424.

(1) in sections 2(5) and 4(b), by striking "or a nonmember borrower" wherever it appears;

12 USC 1426.

(2) in section 6(e) (as redesignated by section 706 of this Act), by striking "or nonmember borrower" wherever it appears;

(3) in section 6(e) (as redesignated by section 706 of this Act), by striking "or deprive any nonmember borrower of the privilege of further advances,";

12 USC 1427, 1430.

(4) in sections 7(j) and 10(c), by striking "or nonmember borrower" wherever it appears;

(5) in section 10(c), by striking ", or made to a nonmember borrower" in the second sentence; and

12 USC 1431.

(6) in sections 11(g) and 11(h), by striking "or nonmember borrowers" wherever it appears.

(c) COMMUNITY SUPPORT.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end the following:

"(g) COMMUNITY SUPPORT REQUIREMENTS.—

Regulations.

"(1) IN GENERAL.—Before the end of the 2-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board shall adopt regulations establishing standards of community investment or service for members of Banks to maintain continued access to long-term advances.

"(2) FACTORS TO BE INCLUDED.—The regulations promulgated pursuant to paragraph (1) shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 and the member's record of lending to first-time homebuyers.".

SEC. 711. ADMINISTRATIVE EXPENSES.

Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1437(b)) is amended to read as follows:

12 USC 1438.

"(b) ASSESSMENTS FOR ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Board may impose a semiannual assessment on the Federal Home Loan Banks, the aggregate amount of which is sufficient to provide for the payment of the Board's estimated expenses for the period for which such assessment is made.

"(2) DEFICIENCIES.—If, at any time, amounts available from any assessment for any semiannual period are insufficient to cover the expenses of the Board incurred in carrying out the provisions of this Act during such period, the Board may make an immediate assessment against the Banks to cover the amount of the deficiency for such semiannual period.

"(3) SURPLUSES.—If, at the end of any semiannual period for which an assessment is made, any amount remains from such assessment, such amount will be deducted from the assessment on the Banks by the Board for the following semiannual period.

"(4) TRANSITION PROVISION.—On or after the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Board may levy a one-time special assessment on the Banks pursuant to this subsection for the Board's estimated expenses for the transitional period following enactment of such Act, if such assessment is made before the Board's first semiannual assessment under paragraph (1).".

SEC. 712. NONADMINISTRATIVE EXPENSES.

Subsection (a) of section 18 of the Federal Home Loan Bank Act (12 U.S.C. 1438(a)) and section 19A of such Act (12 U.S.C. 1439-1) are hereby repealed.

SEC. 713. FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION INDUSTRY ADVISORY COMMITTEE.

Subsection (i) of section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is repealed and subsections (j), (k), and (l) are redesignated subsections (i), (j), and (k), respectively.

SEC. 714. ADVANCES.

(a) IN GENERAL.—Subsection (a) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended by striking everything after "members" to the end period and inserting the following: "upon collateral sufficient, in the judgment of the Bank, to fully secure advances obtained from the Bank under this section or section 11(g) of this Act. All long-term advances shall only be made for the purpose of providing funds for residential housing finance. A Bank, at the time of origination or renewal of a loan or advance, shall obtain and maintain a security interest in collateral eligible pursuant to one or more of the following categories:

"(1) Fully disbursed, whole first mortgages on improved residential property (not more than 90 days delinquent), or securities representing a whole interest in such mortgages.

"(2) Securities issued, insured, or guaranteed by the United States Government or any agency thereof (including without limitation, mortgage-backed securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Corporation, and the Government National Mortgage Association).

"(3) Deposits of a Federal Home Loan Bank.

"(4) Other real estate related collateral acceptable to the Bank if such collateral has a readily ascertainable value and the Bank can perfect its interest in the collateral. The aggregate amount of outstanding advances secured by such other real estate related collateral shall not exceed 30 percent of such member's capital.

"(5) Paragraphs (1) through (4) shall not affect the ability of any Federal Home Loan Bank to take such steps as it deems necessary to protect its security position with respect to outstanding advances, including requiring deposits of additional collateral security, whether or not such additional security would be eligible to originate an advance. If an advance existing on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 matures and the member does not have sufficient eligible collateral to fully secure a renewal of such advance, a Bank may renew such advance secured by such collateral as the Bank and the Board determines is appropriate. A member that has an advance secured by such insufficient eligible collateral must reduce its level of outstanding advances promptly and prudently in accordance with a schedule determined by the Board.".

(b) REDUCED ELIGIBILITY FOR ADVANCES.—Section 10(e) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)) is amended to read as follows:

"(e) QUALIFIED THRIFT LENDER STATUS.—

"(1) IN GENERAL.—A member that is not a qualified thrift lender may only receive an advance if it holds stock in its Federal Home Loan Bank at the time it receives that advance in an amount equal to at least—

"(A) 5 percent of that member's total advances, divided by

"(B) such member's actual thrift investment percentage.

Such members that are not qualified thrift lenders may only apply for advances under this section for the purpose of obtaining funds for housing finance.

"(2) PRIORITY.—The Board, by regulation, shall establish a priority for advances to members that are qualified thrift lenders. The aggregate amount of any Bank's advances to members that are not qualified thrift lenders shall not exceed 30 percent of a Bank's total advances.

"(3) MINIMUM STOCK PURCHASE REQUIREMENT FOR MEMBERSHIP.—Each member of a Federal Home Loan Bank shall, at a minimum, purchase and maintain stock in its Federal Home Loan Bank in the amount that would be required under section 6(b) if at least 30 percent of such member's assets were home mortgage loans.

"(4) EXCEPTIONS.—Paragraphs (1) and (2) of this subsection do not apply to—

"(A) a savings bank as defined in section 3 of the Federal Deposit Insurance Act; or

"(B) a Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

"(i) that was chartered as a savings bank or cooperative bank prior to October 15, 1982; or

"(ii) that acquired its principal assets from an institution which was chartered prior to October 15, 1982, as a savings bank or cooperative bank under State law.

"(5) DEFINITIONS.—As used in this subsection—

"(A) SAVINGS ASSOCIATION.—The term 'savings association' has the same meaning as in section 10(a)(1)(A) of the Home Owners' Loan Act.

"(B) QUALIFIED THRIFT LENDER.—The term 'qualified thrift lender' has the same meaning as in section 10(m) of the Home Owners' Loan Act.

"(C) ACTUAL THRIFT INVESTMENT PERCENTAGE.—The term 'actual thrift investment percentage' has the same meaning as in section 10(m) of the Home Owners' Loan Act.".

(c) SPECIAL LIQUIDITY ADVANCES.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) (as amended by section 710(c) of this Act) is amended by adding at the end the following new subsection:

"(h) SPECIAL LIQUIDITY ADVANCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Federal Home Loan Banks may, upon the request of the Director of the Office of Thrift Supervision, make short-term liquidity advances to a savings association that—

"(A) is solvent but presents a supervisory concern because of such association's poor financial condition; and

"(B) has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

"(2) INTEREST ON AND SECURITY FOR SPECIAL LIQUIDITY ADVANCES.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be subject to all applicable collateral requirements, including the requirements of section 10(a) of this Act, and shall be at an interest rate no less favorable than those made available for similar short-term liquidity advances to savings associations that do not present such supervisory concern.".

SEC. 715. AMENDMENTS RELATING TO WITHDRAWAL FROM FEDERAL HOME LOAN BANK MEMBERSHIP.

Section 6(h) of the Federal Home Loan Bank Act (as redesignated by section 706 of this Act) is amended by striking "five" and inserting "10".

SEC. 716. REPEAL OF PROVISIONS RELATING TO LAWFUL CONTRACT RATE.

Section 5 of the Federal Home Loan Bank Act (12 U.S.C. 1425) is hereby repealed.

SEC. 717. BANK STOCK AND OBLIGATIONS.

Section 23 of the Federal Home Loan Bank Act (12 U.S.C. 1443) is amended to read as follows:

"SEC. 23. FORMS OF BANK STOCK AND OBLIGATIONS.

"Any stock, debentures, bonds, notes, or other obligations issued under the authority of this Act may be issued in uncertificated form, utilizing a book entry method, or in certificated form under such rules, regulations, or guidelines as the Board of Directors of the Federal Housing Finance Board may provide.".

SEC. 718. THRIFT ADVISORY COUNCIL.

Section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) is hereby repealed.

SEC. 719. EXAMINATION OF MEMBERS.

Section 22 of the Federal Home Loan Bank Act (12 U.S.C. 1442) is amended to read as follows:

"SEC. 22. MEMBER FINANCIAL INFORMATION.

Classified information.

"(a) In General.—In order to enable the Federal Home Loan Banks to carry out the provisions of this Act, the Secretary of the Treasury, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision, upon request by any Federal Home Loan Bank—

"(1) shall make available in confidence to any Federal Home Loan Bank, such reports, records, or other information as may be available, relating to the condition of any member of any Federal Home Loan Bank or any institution with respect to which any such Bank has had or contemplates having transactions under this Act; and

"(2) may perform through their examiners or other employees or agents, for the confidential use of the Federal Home Loan Bank, examinations of institutions for which such agency is the appropriate Federal banking regulatory agency.

Reports.

In addition, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision shall make available to the Board or any Federal Home Loan Bank the financial reports filed by members of any Bank to enable the Board or a Bank to compile and publish cost of funds indices or other financial or statistical reports.

"(b) Consent by Members.—Every member of a Federal Home Loan Bank shall, as a condition precedent thereto, be deemed—

"(1) to consent to such examinations as the Bank or the Board may require for the purposes of this Act;

"(2) to agree that reports of examinations by local, State, or Federal agencies or institutions may be furnished by such authorities to the Bank or the Board upon request; and

"(3) to agree to give the Bank or the Federal agency, upon request, such information as they may need to compile and publish cost of funds indices and to publish other reports or statistical summaries pertaining to the activities of Bank members.".

SEC. 720. LIQUIDITY.

Section 5A of the Federal Home Loan Bank Act (12 U.S.C. 1425a) is hereby repealed.

SEC. 721. AFFORDABLE HOUSING.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) (as amended by section 710 and section 714 of this Act) is amended by adding at the end the following:

"(i) COMMUNITY INVESTMENT PROGRAM.—

"(1) IN GENERAL.—Each Bank shall establish a program to provide funding for members to undertake community-oriented mortgage lending. Each Bank shall designate a community investment officer to implement community lending and affordable housing advance programs of the Banks under this subsection and subsection (j) and provide technical assistance and outreach to promote such programs. Advances under this program shall be priced at the cost of consolidated Federal Home Loan Bank obligations of comparable maturities, taking into account reasonable administrative costs.

"(2) COMMUNITY-ORIENTED MORTGAGE LENDING.—For purposes of this subsection, the term 'community-oriented mortgage lending' means providing loans—

"(A) to finance home purchases by families whose income does not exceed 115 percent of the median income for the area,

"(B) to finance purchase or rehabilitation of housing for occupancy by families whose income does not exceed 115 percent of median income for the area,

"(C) to finance commercial and economic development activities that benefit low- and moderate-income families or activities that are located in low- and moderate-income neighborhoods, and

"(D) to finance projects that further a combination of the purposes described in subparagraphs (A) through (C).

"(j) AFFORDABLE HOUSING PROGRAM.—

Disadvantaged persons.

"(1) IN GENERAL.—Pursuant to regulations promulgated by the Board, each Bank shall establish an Affordable Housing Program to subsidize the interest rate on advances to members engaged in lending for long term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates.

"(2) STANDARDS.—The Board's regulations shall permit Bank members to use subsidized advances received from the Banks to—

"(A) finance homeownership by families with incomes at or below 80 percent of the median income for the area; or

"(B) finance the purchase, construction, or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households for the remaining useful life of such housing or the mortgage term.

"(3) PRIORITIES FOR MAKING ADVANCES.—In using advances authorized under paragraph (1), each Bank member shall give priority to qualified projects such as the following:

"(A) purchase of homes by families whose income is 80 percent or less of the median income for the area, "(B) purchase or rehabilitation of housing owned or held by the United States Government or any agency or instrumentality of the United States; and

"(C) purchase or rehabilitation of housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency.

"(4) REPORT.—Each member receiving advances under this program shall report annually to the Bank making such advances concerning the member's use of advances received under this program.

"(5) CONTRIBUTION TO PROGRAM.—Each Bank shall annually contribute the percentage of its annual net earnings prescribed in the following subparagraphs to support subsidized advances through the Affordable Housing Program:

"(A) In 1990, 1991, 1992, and 1993, 5 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of all the Banks shall not be less than $50,000,000 for each such year.

"(B) In 1994, 6 percent of the preceding year's net income, or such prorated sum as may be required to assure that the aggregate contribution of the Banks shall not be less than $75,000,000 for such year.

"(C) In 1995, and subsequent years, 10 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of the Banks shall not be less than $100,000,000 for each such year.

"(6) GROUNDS FOR SUSPENDING CONTRIBUTIONS.—

"(A) IN GENERAL.—If a Bank finds that the payments required under this paragraph are contributing to the financial instability of such Bank, it may apply to the Federal Housing Finance Board for a temporary suspension of such payments.

"(B) FINANCIAL INSTABILITY.—In determining the financial instability of a Bank, the Federal Housing Finance Board shall consider such factors as (i) whether the Bank's earnings are severely depressed, (ii) whether there has been a substantial decline in membership capital, and (iii) whether there has been a substantial reduction in advances outstanding.

"(C) REVIEW.—The Board shall review the application and any supporting financial data and issue a written decision approving or disapproving such application. The Board's decision shall be accompanied by specific findings and reasons for its action.

"(D) MONITORING SUSPENSION.—If the Board grants a suspension, it shall specify the period of time such suspension shall remain in effect and shall continue to monitor the Bank's financial condition during such suspension.

"(E) LIMITATIONS ON GROUNDS FOR SUSPENSION.—The Board shall not suspend payments to the Affordable Housing Program if the Bank's reduction in earnings is a result of (i) a change in the terms for advances to members which is not justified by market conditions, (ii) inordinate operating and administrative expenses, or (iii) mismanagement.

"(F) The Federal Housing Finance Board shall notify the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not less than 60 days before such suspension takes effect. Such suspension shall become effective unless a joint resolution is enacted disapproving such suspension.

"(7) FAILURE TO USE AMOUNTS FOR AFFORDABLE HOUSING.—If any Bank fails to utilize or commit the full amount provided in this subsection in any year, 90 percent of the amount that has not been utilized or committed in that year shall be deposited by the Bank in an Affordable Housing Reserve Fund administered by the Board. The 10 percent of the unutilized and uncommitted amount retained by a Bank should be fully utilized or committed by that Bank during the following year and any remaining portion must be deposited in the Affordable Housing Reserve Fund. Under regulations established by the Board, funds from the Affordable Housing Reserve Fund may be made available to any Bank to meet additional affordable housing needs in such Bank's district pursuant to this section.

"(8) NET EARNINGS.—The net earnings of any Federal Home Loan Bank shall be determined for purposes of this paragraph—

"(A) after reduction for any payment required under section 21 or 21B of this Act; and

"(B) before declaring any dividend under section 16.

"(9) REGULATIONS.—The Federal Housing Finance Board shall promulgate regulations to implement this subsection. Such regulations shall, at a minimum—

"(A) specify activities eligible to receive subsidized advances from the Banks under this program;

"(B) specify priorities for the use of such advances;

"(C) ensure that advances made under this program will be used only to assist projects for which adequate long-term monitoring is available to guarantee that affordability standards and other requirements of this subsection are satisfied;

"(D) ensure that a preponderance of assistance provided under this subsection is ultimately received by low- and moderate-income households;

"(E) ensure that subsidies provided by Banks to member institutions under this program are passed on to the ultimate borrower;

"(F) establish uniform standards for subsidized advances under this program and subsidized lending by member institutions supported by such advances, including maximum subsidy and risk limitations for different categories of loans made under this subsection; and

"(G) coordinate activities under this subsection with other Federal or federally-subsidized affordable housing activities to the maximum extent possible.

"(10) OTHER PROGRAMS.—No provision of this subsection or subsection (i) shall preclude any Bank from establishing additional community investment cash advance programs or contributing additional sums to the Affordable Housing Reserve Fund.

"(11) ADVISORY COUNCIL.—Each Bank shall appoint an Advisory Council of 7 to 15 persons drawn from community and nonprofit organizations actively involved in providing or promoting low- and moderate-income housing in its district. The Advisory Council shall meet with representatives of the board of directors of the Bank quarterly to advise the Bank on low- and moderate-income housing programs and needs in the district and on the utilization of the advances for these purposes. Each Advisory Council established under this paragraph shall submit to the Board at least annually its analysis of the low-income housing activity of the Bank by which it is appointed.

"(12) REPORTS TO CONGRESS.—

"(A) The Board shall monitor and report annually to the Congress and the Advisory Council for each Bank the support of low-income housing and community development by the Banks and the utilization of advances for these purposes.

"(B) The analyses submitted by the Advisory Councils to the Board under paragraph (11) shall be included as part of the report required by this paragraph.

"(C) The Comptroller General of the United States shall audit and evaluate the Affordable Housing Program established by this subsection after such program has been operating for 2 years. The Comptroller General shall report to Congress on the conclusions of the audit and recommend improvements or modifications to the program.

"(13) DEFINITIONS.—For purposes of this subsection—

"(A) LOW- OR MODERATE-INCOME HOUSEHOLD.—The term 'low- or moderate-income household' means any household which has an income of 80 percent or less of the area median.

"(B) VERY LOW-INCOME HOUSEHOLD.—The term 'very low-income household' means any household that has an income of 50 percent or less of the area median.

"(C) LOW- OR MODERATE-INCOME NEIGHBORHOOD.—The term 'low- or moderate-income neighborhood' means any neighborhood in which 51 percent or more of the households are low- or moderate-income households.

"(D) AFFORDABLE FOR VERY-LOW INCOME HOUSEHOLDS.—For purposes of paragraph (2)(B) the term 'affordable for very-low income households' means that rents charged to tenants for units made available for occupancy by low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the income for the area (as determined by the Secretary of Housing and Urban Development) with adjustment for family size.".

12 USC 1437 note.

SEC. 722. TRANSFERRED EMPLOYEES OF FEDERAL HOME LOAN BANKS AND JOINT OFFICES.

(a) IN GENERAL.—Each employee of the Federal Home Loan Banks or joint offices of such Banks performing a function identified for transfer under section 403 of this Act, including employees who otherwise would be ineligible for employment by the United States because of their citizenship, shall be transferred for employment not later than 60 days after the date of the enactment of this Act.

(b) NOTICE TO EMPLOYEES.—Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(c) GUARANTEED POSITION.—Each transferred employee shall be guaranteed a position with the same status and tenure as that held by such employee on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated for one year after the date of transfer, except for cause.

(d) PAY AND BENEFITS.—Each employee transferred under this section shall be entitled to receive, during the one-year period immediately following the transfer, pay and benefits comparable to those received by such employee immediately preceding the transfer. Where necessary or appropriate to further the safety and soundness of the thrift industry, the employing agency may continue the pre-transfer compensation of any transferring employee for up to 2 years beyond the expiration of the period provided for under the preceding sentence. Such pay and benefits shall be subject to the comparability provisions of this Act. Any transferred employee who suffers a reduction of pay or benefits as a result of such comparability provisions shall be compensated for such reduction during the 1 year period following the transfer by assessments from the Federal Home Loan Bank or joint office of such Banks, from which the employee transferred. In any event, this subsection shall only apply to a transferred employee while such employee remains with the agency to which the employee is transferred.

(e) HEALTH INSURANCE.—If the health insurance program of a transferred employee is not continued by the agency to which the employee is transferred, such employee may elect to participate in the agency's health insurance program notwithstanding health conditions pre-existing at the time of election or enrollment into an alternate health insurance program of the agency to which he or she is transferred and without regard to any other regularly scheduled open season. Such election shall be made within 30 days of the transfer.

(f) EQUITABLE TREATMENT.—The Director of the Office of Thrift Supervision or the Chairperson of the Federal Housing Finance Board shall take such action as is necessary on a case-by-case basis so that employees transferring under this section receive equitable treatment regarding credit for prior service with a Federal entity or instrumentality, or with a Federal Home Loan Bank or joint office of such Banks, with respect to the transferring employees' retirement accounts and the transferring employees' accrued leave or vacation time, in recognition of the transferring employees' supervisory service.

(g) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual who was a reemployed annuitant on July 26, 1989, and who is transferred under this section, shall not be subject to the deduction from pay required by section 8344 or 8468 of title 5, United States Code, during the 1-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

SEC. 723. TRANSITIONAL PROVISIONS.

12 USC 1437 note.

(a) FEDERAL HOME LOAN BANKS' SHARE OF ADMINISTRATIVE EXPENSES.—The Federal Home Loan Banks shall pay to the Director of the Office of Thrift Supervision the amount obtained by multiplying the administrative expenses of the Office of Thrift Supervision incurred in connection with functions of the Banks that are transferred to the Office (less any fees or assessments collected by the Office) by a fraction—

(1) the numerator of which is the amount of such expenses of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation paid by the Banks during the 1-year period ending on the date of enactment of this Act; and

(2) the denominator of which is the total expenses of such Board and Corporation during such period.

No payment under this subsection is required after December 31, 1989.

(b) COMPENSATION OF SUPERVISORY AND EXAMINATIONS EMPLOYEES.—The Federal Home Loan Banks shall continue to pay the compensation of employees of the Federal Home Loan Banks or the joint offices of such banks who, on the day before the date of the enactment of this Act, are performing supervisory and examination functions until such supervisory and examination functions are transferred under this Act. Thereafter, the obligation of the Federal Home Loan Banks hereunder to pay such applicable compensation shall continue until the later of—

(1) the date which is 120 days after the date of transfer of such supervisory and examination functions to the Office of Thrift Supervision, or

(2) March 31, 1990.

Payment of such compensation by the Federal Home Loan Banks shall be in lieu of, and not in addition to, the payment of compensation by the Office of Thrift Supervision.

(c) FACILITIES AND SUPPORT SERVICES.—Until December 31, 1990, the Federal Home Loan Banks, as necessary, shall (with respect to supervisory and examination functions performed by employees transferred from the Federal Home Loan Banks or joint offices of such Banks to the Office of Thrift Supervision), provide the Office of Thrift Supervision facilities and support services comparable to those presently provided for the employees of the Federal Home Loan Banks or joint offices of such Banks performing such supervisory and examination functions, including office space, furniture and equipment, computer, personnel, and other support services. With respect to supervisory and examination functions presently performed by employees of individual Federal Home Loan Banks, each such Bank will only be required to provide such facilities and support services to the extent that the functions continue to be performed in that Bank's offices.

(d) PRINCIPAL SUPERVISORY AGENT.—Beginning on the date of enactment of this Act until the Director of the Office of Thrift Supervision shall otherwise provide, the Principal Supervisory Agent for each Federal Home Loan Bank district shall be the senior supervisory official (other than the President of the Federal Home Loan Bank) employed by the Federal Home Loan Bank in such district on the day before the date of the enactment of this Act, and such employees performing supervisory and examination functions shall continue to be responsible for the supervision and examination of savings associations within such district.

SEC. 724. FEDERAL HOME LOAN BANK RESERVES.

(a) IN GENERAL.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) by striking the first three sentences and inserting in lieu thereof: "Each Federal Home Loan Bank may carry to a reserve

account from time-to-time such portion of its net earnings as may be determined by its board of directors."; and

(2) by striking the fifth sentence and inserting the following: "No dividends shall be paid except out of net earnings remaining after reductions for all reserves, chargeoffs, purchases of capital certificates of the Financing Corporation, and payments relating to the Funding Corporation required under this Act have been provided for, other than chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation under section 21 or payments relating to the Funding Corporation Principal Fund under section 21B(e), and then only with the approval of the Federal Housing Finance Board. Beginning on January 1, 1992, the preceding sentence shall be applied by substituting 'previously retained earnings or current net earnings' for 'net earnings'.".

Effective date.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on January 1, 1992.

12 USC 1436 note.

SEC. 725. SPECIAL ACCOUNT.

12 USC 1437 note.

At the time of dissolution of the Federal Home Loan Bank Board, all such moneys and funds as shall remain in the special deposit account of the Federal Home Loan Bank Board, or other such accounts, shall become the property of the Federal Housing Finance Board.

Subtitle B—Federal Home Loan Mortgage Corporation

SEC. 731. FEDERAL HOME LOAN MORTGAGE CORPORATION.

(a) STATEMENT OF PURPOSE.—

(1) IN GENERAL.—Section 301 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(A) by inserting "(a)" after the section designation; and

(B) by adding at the end the following new subsection:

"(b) It is the purpose of the Federal Home Loan Mortgage Corporation—

"(1) to provide stability in the secondary market for home mortgages;

"(2) to respond appropriately to the private capital market; and

"(3) to provide ongoing assistance to the secondary market for home mortgages (including mortgages securing housing for low- and moderate-income families involving a reasonable economic return to the Corporation) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing.".

(2) CONFORMING AMENDMENT.—The section heading for section 301 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended to read as follows:

"SHORT TITLE AND STATEMENT OF PURPOSE".

(b) BOARD OF DIRECTORS.—

(1) New board.—Section 303(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)) is amended to read as follows:

"(a)(1) There is hereby created the Federal Home Loan Mortgage Corporation, which shall be a body corporate under the direction of a Board of Directors. Within the limitations of law and regulation, the Board of Directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

District of Columbia.

President of U.S.

"(2)(A) The Board of Directors of the Corporation shall consist of 18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom shall be elected annually by the voting common stockholders. The Board of Directors shall at all times have as members appointed by the President of the United States at least 1 person from the homebuilding industry, at least 1 person from the mortgage lending industry, and at least 1 person from the real estate industry.

"(B) Each member of the Board of Directors shall be such or elected for a term ending on the date of the next annual meeting of the voting common stockholders.

"(C) Any appointive seat on the Board of Directors that becomes vacant shall be filled by appointment by the President of the United States, but only for the unexpired portion of the term. Any elective seat on the Board of Directors that becomes vacant after the annual election of the directors shall be filled by the Board of Directors, but only for the unexpired portion of the term.

"(D) Any member of the Board of Directors who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for services as such a member.".

12 USC 1452 note.

(2) Transitional provisions.—

(A) Interim board.—

(i) Establishment.—There shall be an interim Board of Directors of the Federal Home Loan Mortgage Corporation, which shall serve from the date of the enactment of this Act until the date of the 1st meeting of the voting common shareholders of the Corporation at which the first election of the directors elected by the shareholders occurs.

(ii) Members.—The interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of—

(I) the President of the Corporation; and

(II) the persons who were (on the day before the date of the enactment of this Act) the Chairman of the Federal Home Loan Bank Board and the Secretary of Housing and Urban Development (or their designees).

(iii) Quorum.—A quorum of the interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of a majority of the directors duly serving from time to time.

(B) Election of permanent directors.—The first meeting of the voting common shareholders of the Federal Home Loan Mortgage Corporation for election of directors shall occur, under procedures established by the Corporation, within 6 months after the date of the enactment of this Act.

(c) Regulatory Power.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b)(1) The Secretary of Housing and Urban Development shall have general regulatory power over the Corporation and shall make such rules and regulations as shall be necessary and proper to ensure that the purposes of this title are accomplished.

Disadvantaged persons.

"(2) The Secretary of Housing and Urban Development may require that a reasonable portion of the mortgage purchases of the Corporation be related to the national goal of providing adequate housing for low- and moderate-income families, but with reasonable economic return to the Corporation.

"(3) The aggregate amount of cash dividends paid by the Corporation in any fiscal year on account of any share of its common stock shall not exceed any rate that may be determined from time to time by the Secretary of Housing and Urban Development to be a fair rate of return after consideration of the current earnings and capital condition of the Corporation.

"(4) The Secretary of Housing and Urban Development may examine and audit the books and financial transactions of the Corporation and may require the Corporation to issue any reports on its activities that the Secretary determines to be advisable. The Secretary shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this Act.

Reports.

"(5) The aggregate amount of notes, debentures, or substantially identical types of unsecured obligations outstanding at any time shall not exceed the amount which is 15 times the sum of the Corporation's capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development. The outstanding total principal amount of any obligations of the Corporation which are entirely subordinated to the general debt obligations of the Corporation shall be deemed to be capital of the Corporation for the purpose of determining the aggregate amount of notes, debentures, or substantially identical types of unsecured obligations outstanding at any time.

"(6) All issuances of stock, and debt obligations convertible into stock, by the Corporation shall be made only with the approval of the Secretary of Housing and Urban Development.

"(7)(A) The exercise of the authority of the Corporation pursuant to commitments or otherwise to purchase, service, sell, lend on the security of, or otherwise deal in conventional residential mortgages under section 305(a) shall be subject to the approval of the Secretary of Housing and Urban Development.

"(B) Any conventional mortgage programs or activities with respect to purchasing, servicing, selling, lending on the security of, or otherwise dealing in mortgages in which the Corporation has engaged or is engaging as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of Housing and Urban Development as required by this paragraph.

Reports.

"(8) If the Corporation submits to the Secretary of Housing and Urban Development a request for approval or other action under this title, the Secretary shall, not later than the expiration of the 45-day period following the submission of the request, approve the request or transmit to the Congress a report explaining why the request has not been approved. The period may be extended for an additional 15-day period if the Secretary requests additional information from the Corporation, but the 45-day period may not be extended for any other reason or for any period in addition to or other than the 15-day period. If the Secretary fails to transmit the report to the Congress within the 45-day period or 60-day period, as the case may be, the Corporation may proceed as if the request had been approved.".

(d) Common Stock.—

(1) In general.—Section 304(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(a)) is amended to read as follows:

"(a)(1) The common stock of the Corporation shall consist of—

"(A) nonvoting common stock, which shall be issued only to Federal home loan banks; and

"(B) voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

"(2) The nonvoting common stock and the voting common stock shall have such par value and other characteristics as the Corporation provides. The voting common stock shall be vested with all voting rights, each share being entitled to 1 vote. The free transferability of the voting common stock at all times to any person, firm, corporation or other entity shall not be restricted except that, as to the Corporation, it shall be transferable only on the books of the Corporation. Nonvoting common stock of the Corporation shall be evidenced in the manner and shall be transferable only to the extent, to the transferees, and in the manner, provided by the Corporation.".

12 USC 1453 note.

(2) Conversion of stock.—On the date of the enactment of this Act, each share of outstanding senior participating preferred stock of the Federal Home Loan Mortgage Corporation, with a par value of $2.50 per share, shall be changed into and shall become 1 share of voting common stock of the Corporation. Such voting common stock shall, with respect to the nonvoting common stock of the Corporation, retain all of the rights, priorities and privileges of the senior participating preferred stock. The transformation of the senior participating preferred stock into voting common stock under this paragraph shall be deemed to satisfy the obligation of the Corporation to redeem senior participating preferred stock for non-callable common stock.

(3) Conforming amendments.—

(A) Subscriptions of federal home loan banks.—Section 304(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(b)) is amended by inserting "nonvoting" before "common".

(B) Allocation of subscriptions.—Section 304(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(c)) is amended by striking "such" and by inserting "nonvoting common" before "stock".

(C) Retirement of stock.—Section 304(d) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453(d)) is amended by inserting "nonvoting common" before "stock" each place it appears.

(e) MORTGAGE OPERATIONS.—

(1) PROHIBITION ON FEES.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended by adding at the end the following: "Nothing in this section authorizes the Corporation to impose any charge or fee upon any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act solely because of such status.".

(2) LENDING ACTIVITIES.—Section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)) is amended by adding at the end the following new paragraph:

"(5) The Corporation is authorized to lend on the security of, and to make commitments to lend on the security of, any mortgage that the Corporation is authorized to purchase under this section. The volume of the Corporation's lending activities and the establishment of its loan ratios, interest rates, maturities, and charges or fees in its secondary market operations under this paragraph, shall be determined by the Corporation from time to time; and such determinations shall be consistent with the objectives that the lending activities shall be conducted on such terms as will reasonably prevent excessive use of the Corporation's facilities, and that the operations of the Corporation under this paragraph shall be within its income derived from such operations and that such operations shall be fully self-supporting. The Corporation shall not be permitted to use its lending authority under this paragraph (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans. Notwithstanding any Federal, State, or other law to the contrary, the Corporation is hereby empowered, in connection with any loan under this paragraph, whether before or after any default, to provide by contract with the borrower for the settlement or extinguishment, upon default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in any mortgage or mortgages that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such security shall become the absolute property of the Corporation.".

(f) REFERENCES TO FSLIC AND FHLBB.—

(1) SECTION 302.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(A) in the 4th sentence, by striking out "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Resolution Trust Corporation"; and

(B) in the 8th sentence, by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Federal Housing Finance Board".

(2) SECTION 305.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended—

(A) by striking out "Federal Savings and Loan Insurance Corporation" each place it appears and inserting in lieu thereof "Resolution Trust Corporation"; and

(B) in subsection (a)(2), by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Federal Housing Finance Board".

(g) STANDBY CREDIT.—Section 306(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(c)) is amended to read as follows:

"(c)(1) The Secretary of the Treasury may purchase any obligations issued under subsection (a). For such purpose, the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purpose.

"(2) The Secretary of Treasury shall not at any time purchase any obligations under this subsection if the purchase would increase the aggregate principal amount of the outstanding holdings of obligations under this subsection by the Secretary to an amount greater than $2,250,000,000.

"(3) Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions established to yield a rate of return determined by the Secretary to be appropriate, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of the purchase.

"(4) The Secretary of the Treasury may at any time sell, upon terms and conditions and at prices determined by the Secretary, any of the obligations acquired by the Secretary under this subsection.

"(5) All redemptions, purchases and sales by the Secretary of the Treasury of obligations under this subsection shall be treated as public debt transactions of the United States.".

(h) PREFERRED STOCK.—Section 306(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(f)) is amended to read as follows:

"(f) The Corporation may have preferred stock on such terms and conditions as the Board of Directors shall prescribe. Any preferred stock shall not be entitled to vote with respect to the election of any member of the Board of Directors.".

(i) TERMS OF OBLIGATIONS.—Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455) is amended by adding at the end the following new subsections:

"(j)(1) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation evidencing money borrowed, whether general or subordinated, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

"(2) Any notes, debentures, of substantially identical types of unsecured obligations of the Corporation having maturities of 1 year or less that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 365 days after such date of enactment.

"(3) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation having maturities of more than 1 year that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 60 days after such date of enactment.

"(k)(1) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and shall bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

"(2) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, that the Corporation has issued or is issuing as of the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection.".

(j) State Limitations.—

(1) The second sentence of section 307(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(a)) is amended to read as follows: "The Corporation is authorized to conduct its business without regard to any qualification or similar statute in any State.".

(2) The amendment made by this subsection shall not apply to any assertion of priority by the Federal Home Loan Mortgage Corporation with respect to any cause of action or claim filed before the date of the enactment of this Act. 12 USC 1456 note.

(k) Penal Provisions.—Section 308 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1457) is amended—

(1) in subsection (a), by striking the subsection designation; and

(2) by striking subsections (b), (c), (d), (e), and (f).

(l) Construction.—Section 310 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1459) is amended—

(1) in the section heading, by striking "CONSTRUCTION AND"; and

(2) by striking the first sentence.

(m) Conforming Amendments to Federal National Mortgage Association Charter Act.—

(1) Statement of purpose.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(A) by striking paragraphs (a) and (b) and inserting the following new paragraphs:

"(1) provide stability in the secondary market for home mortgages;

"(2) respond appropriately to the private capital market;

"(3) provide ongoing assistance to the secondary market for home mortgages (including mortgages securing housing for low- and moderate-income families involving a reasonable economic return) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for home mortgage financing; and"; and

(B) by redesignating paragraph (c) as paragraph (4).

(2) LENDING ACTIVITIES.—Section 304(a)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(a)(2)) is amended—

(A) by inserting after the 3rd sentence the following new sentence: "The corporation shall not be permitted to use its lending authority (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans."; and

(B) by striking the 1st and 2d sentences.

(3) AUDITS BY GAO.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

"(j) The mortgage transactions of the corporation may be subject to audit by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporation transactions under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to such books, accounts, financial records, reports, files, and such other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.".

Reports.

Subtitle C—Technical and Conforming Amendments

SEC. 741. REPEAL OF LIMITATION OF OBLIGATION FOR ADMINISTRATIVE EXPENSES.

Section 7(b) of the First Deficiency Appropriation Act of 1936 (15 U.S.C. 712a(b)) is amended by striking the following:

"1. Federal Home Loan Bank Board;";

"2. Home Owners' Loan Corporation;"; and

"11. Federal Savings and Loan Insurance Corporation;".

SEC. 742. AMENDMENT OF TITLE 5, UNITED STATES CODE.

(a) EXECUTIVE SCHEDULE.—

(1) Section 5314 of title 5, United States Code (5 U.S.C. 5315) is amended—

(A) by striking

"Chairman of the Federal Home Loan Bank Board."; and

(B) by adding at the end thereof the following:

"Director of the Office of Thrift Supervision.

"Chairperson of the Federal Housing Finance Board.".

(2) Section 5315 of title 5, United States Code (5 U.S.C. 5315) is amended—

(A) by striking out

"Members, Federal Home Loan Bank Board.", and

(B) by inserting

"Directors, Federal Housing Finance Board.".

(b) LIMITATION ON PAY FIXED BY ADMINISTRATIVE ACTION.—Section 5373(2) of title 5, United States Code, is amended by inserting after "481," the following: "1437, 1439,".

(c) DEFINITION OF AGENCY.—Section 3132(a)(1) of title 5, United States Code (5 U.S.C. 3132(a)(1)), is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by inserting "or" after the semicolon; and

(3) by adding at the end the following:

"(D) the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, and the National Credit Union Administration;".

SEC. 743. AMENDMENT OF BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT PROVISIONS.

(a) Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(1) by inserting after the item relating to the Comptroller of the Currency the following new item:

"Director of the Office of Thrift Supervision;";

(2) by striking out "Federal Home Loan Bank Board;" and inserting in lieu thereof the following new items:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;";

(3) by striking out "Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Federal Housing Finance Board"; and

(4) by inserting after the item relating to the Postal service fund the following new items:

"Resolution Funding Corporation;

"Resolution Trust Corporation;".

(b) Section 256(b)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 256(b)(4)) is amended— 2 USC 906.

(1) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph

"(C) Office of Thrift Supervision.";

(2) by striking subparagraph (D) and inserting in lieu thereof the following new subparagraph:

"(D) Office of Thrift Supervision."; and

(3) by adding at the end thereof the following new subparagraphs:

"(H) Resolution Funding Corporation.

"(I) Resolution Trust Corporation.".

(c) Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "Federal Savings and Loan Insurance Corporation fund (82-4037-0-3-371);".

SEC. 744. CONFORMING AMENDMENTS TO FINANCIAL INSTITUTION RELATED ACTS.

(a) FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT.—

(1) SECTION 1003.—Section 1003 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3302) is amended—

(A) in paragraph (1), by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Office of Thrift Supervision"; and

(B) in paragraph (3), by striking out "savings and loan association" and inserting in lieu thereof "savings association".

(2) SECTION 1004.—Section 1004(a)(4) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)(4)) is amended by striking out "Chairman of the Federal Home Loan Bank Board, and" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(3) SECTION 1006.—Section 1006(d) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(d)) is amended in the 2d sentence by inserting "and employees of the Federal Housing Finance Board" after "supervisory agencies".

(b) RIGHT TO FINANCIAL PRIVACY ACT.—Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) in paragraph (1), by striking out "savings and loan" and inserting in lieu thereof "savings association";

(2) in paragraph (6), by striking out subparagraph (B) and redesignating the remaining subparagraphs as subparagraphs (B) through (H), respectively; and

(3) in paragraph (6)(B) (as so redesignated), by striking out "the Federal Home Loan Bank Board" and inserting in lieu thereof "Director, Office of Thrift Supervision".

(c) ALTERNATIVE MORTGAGE TRANSACTIONS PARITY ACT.—The Alternative Mortgage Transactions Parity Act of 1982 (12 U.S.C. 3801-06) is amended by striking out "Federal Home Loan Bank Board" each place such term appears and inserting in lieu thereof "Director of the Office of Thrift Supervision".

(d) EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a)(2) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation; and".

(e) PAPERWORK REDUCTION ACT.—Section 2(a)(10) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3502(a)(10)) is amended by striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "the Federal Housing Finance Board".

(f) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT.—Section 602(11) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(11)) is amended—

(1) by inserting "or the Resolution Trust Corporation" after "Department of Housing and Urban Development";

(2) by striking out "savings and loan accounts" and inserting in lieu thereof "savings association accounts"; and

(3) by inserting "under the Federal Deposit Insurance Act or any other law." after "National Housing Act".

(g) PUBLIC BUILDINGS ACT.—Section 13(4) of the Public Buildings Act of 1959 (40 U.S.C. 612(d)) is amended by striking out subparagraph (D).

(h) BANK PROTECTION ACT.—Section 2 of the Bank Protection Act of 1968 (12 U.S.C. 1881) is amended—

(1) in paragraph (4), by—

(A) striking out "Federal Home Loan Bank Board" and inserting in lieu thereof "Director of the Office of Thrift Supervision";

(B) striking out "and loan"; and

(C) striking "associations" and all that follows through "Corporation"; and

(2) in paragraph (3), by inserting "and State savings associations" before ", and".

(i) THE FEDERAL RESERVE ACT.—

(1) SECTION 11.—Section 11(a)(2) of the Federal Reserve Act (12 U.S.C. 248(a)(2)) is amended by striking "(iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation" and inserting "(iii) the Director of the Office of Thrift Supervision in the case of any savings association which is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act)".

(2) SECTION 19(b).—Section 19(b)(1)(A)(vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(vi)) is amended to read as follows:

"(vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act; and".

(3) SECTION 19.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended by striking out "the Federal Home Loan Bank Board," and inserting in lieu thereof "the Director of the Office of Thrift Supervision," each place it appears.

(j) PUBLIC LAW 93-495.—Section 3 of title I of Public Law 93-495 (12 U.S.C. 250) is amended by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision".

(k) TRUTH IN LENDING ACT.—Section 108(a)(2) of the Truth in Lending Act (15 U.S.C. 1607(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(l) FAIR CREDIT REPORTING ACT.—Section 621(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(m) EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a)(2) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)(2)) is amended to read as follows:

"(2) Section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(n) FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b)(2) of the Fair Debt Collection Practices Act (15 U.S.C. 1692*l*(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(o) ELECTRONIC FUND TRANSFER ACT.—Section 917(a)(2) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(p) HOME MORTGAGE DISCLOSURE ACT OF 1975.—

(1) SECTION 305.—Section 305(b)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation; and".

(2) SECTION 306.—Section 306(b)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2805(b)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(3) SECTION 307.—Section 307 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2806) is amended by striking "Federal Home Loan Bank Board" each place it appears and inserting "Director of the Office of Thrift Supervision".

(q) COMMUNITY REINVESTMENT ACT OF 1977.—Section 803(1)(D) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(1)(D)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and a savings and loan holding company;".

(r) DEPOSITORY INSTITUTIONS MANAGEMENT INTERLOCKS ACT.—

(1) Section 207(4) of the Depository Institutions Management Interlocks Act (12 U.S.C. 3206(4)) is amended to read as follows:

"(4) the Director of the Office of Thrift Supervision with respect to a savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and savings and loan holding companies,".

(s) DEPOSITORY INSTITUTIONS DEREGULATION ACT OF 1980.—Section 208(a)(2) of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3507(a)(2)) is amended to read as follows:

"(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(t) **Federal Trade Commission Act.**—Section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)) is amended to read as follows:

"(3) Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act with respect to savings associations as defined in section 3 of the Federal Deposit Insurance Act.".

(u) **Securities Exchange Act of 1934.**—

(1) **Section 3.**—Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (G)—

(i) by striking clauses (iv) and (v) and inserting the following:

"(iv) the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;"; and

(ii) by redesignating clause (vi) as clause (v); and

(B) in the second sentence, by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision".

(2) **Section 12.**—Section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(i)) is amended—

(A) in the first sentence—

(i) by inserting "and savings associations" after "banks" the first place it appears;

(ii) by striking "or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation"; and

(iii) by striking paragraph (4) and inserting "(4) with respect to savings associations the accounts of which are insured by the Federal Deposit Insurance Corporation are vested in the Office of Thrift Supervision"; and

(B) in the second sentence, by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision".

(3) **Section 15.**—Section 15C(f)(1) (15 U.S.C. 78o-5(f)(1)) of such Act is amended by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision".

TITLE VIII—BANK CONSERVATION ACT AMENDMENTS

SEC. 801. DEFINITIONS.

Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended—

(1) by inserting after "national banking association" the following: "or any other financial institution chartered or licensed under Federal law and subject to the supervision of the Comptroller of the Currency"; and

(2) by inserting before "and the term 'State' " the following: "the term 'voluntary dissolution and liquidation' means a transaction pursuant to section 5220 of the Revised Statutes that involves the assumption of the bank's insured deposit liabilities

and the sale of the bank, or of control of the bank, as a going concern;".

SEC. 802. APPOINTMENT OF CONSERVATOR.

Section 203 of the Bank Conservation Act (12 U.S.C. 203) is amended to read as follows:

"SEC. 203. APPOINTMENT OF CONSERVATOR.

"(a) APPOINTMENT.—The Comptroller of the Currency may, without notice or prior hearing, appoint a conservator, which may be the Federal Deposit Insurance Corporation, to take possession and control of a bank whenever the Comptroller determines that one or more of the following circumstances exist:

"(1) any one or more of the conditions for appointment of a receiver for the bank specified in the first section of the Act of June 30, 1876 (12 U.S.C. 191) are present;

"(2) the bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(3) the bank is in an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(4)(A) the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and

"(B) there is no reasonable prospect for the bank's capital to be replenished without Federal assistance;

"(5) there is a violation or violations of laws, rules, or regulations, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the bank's condition or otherwise seriously prejudice the interests of its depositors;

"(6) there is concealment of books, papers, records, or assets of the bank, or refusal to submit books, papers, records, or affairs of the bank for inspection to any examiner or to any lawful agent of the Comptroller;

"(7) there is a willful or continuing violation of an order enforceable against the bank under section 8(i) of the Federal Deposit Insurance Act; or

"(8) the bank's board of directors consists of fewer than 5 members.

"(b) JUDICIAL REVIEW.—

"(1) IN GENERAL.—Not later than 20 days after the initial appointment of a conservator pursuant to this section, the bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller to terminate the appointment of the conservator, and the court, upon the merits, shall dismiss such action or shall direct the Comptroller to terminate the appointment of such conservator. The Comptroller's decision to appoint a conservator pursuant to this section shall be set aside only if the court finds that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(2) STAY.—The conservator may request that any judicial action or proceeding to which the conservator or the bank is or may become a party be stayed for a period of up to 45 days after the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

"(3) Actions and orders.—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of a conservator. A court, upon application by the Comptroller, shall have jurisdiction to enforce an order of the Comptroller relating to—

"(A) the conservatorship and the bank in conservatorship, or

"(B) restraining or affecting the exercise of powers or functions of a conservator.

"(c) Additional Grounds for Appointment.—In addition to the foregoing provisions, the Comptroller may appoint a conservator for a bank if—

"(1) the bank, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment, or

"(2) the Federal Deposit Insurance Corporation terminates the bank's status as an insured bank.

The appointment of a conservator pursuant to this subsection shall not be subject to review.

"(d) Exclusive Authority.—The Comptroller shall have exclusive power and jurisdiction to appoint a conservator for a bank. Whenever the Comptroller appoints a conservator for any bank, the Comptroller may appoint the Federal Deposit Insurance Corporation conservator for such bank. The Federal Deposit Insurance Corporation, as such conservator, shall have all the powers granted under the Federal Deposit Insurance Act, and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators of banks under this Act and any other provision of law. The Comptroller may also appoint another person as conservator, who shall be subject to the provisions of this Act.

"(e) Replacement of Conservator.—The Comptroller may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the bank's right under subsection (b) to obtain judicial review of the Comptroller's original decision to appoint a conservator.".

SEC. 803. EXAMINATIONS.

Section 204 of the Bank Conservation Act (12 U.S.C. 204) is amended to read as follows:

"SEC. 204. EXAMINATIONS.

"The Comptroller of the Currency (in consultation with the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation is appointed conservator) is authorized to examine and supervise the bank in conservatorship as long as the bank continues to operate as a going concern. The Comptroller may use reports and other information provided by the Federal Deposit Insurance Corporation for this purpose.".

SEC. 804. TERMINATION OF CONSERVATORSHIP.

Section 205 of the Bank Conservation Act (12 U.S.C. 205) is amended to read as follows:

"SEC. 205. TERMINATION OF CONSERVATORSHIP.

"(a) General Rule.—At any time the Comptroller becomes satisfied that it may safely be done and that it would be in the public interest, the Comptroller (with the agreement of the Board of Directors of the Federal Deposit Insurance Corporation when the Corporation has been appointed conservator) may—

"(1) terminate the conservatorship and permit the involved bank to resume the transaction of its business subject to such terms, conditions, and limitations as the Comptroller may prescribe; or

"(2) terminate the conservatorship upon a sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation of the involved bank.

"(b) Other Grounds for Termination.—The Comptroller also may terminate the conservatorship upon the appointment of a receiver pursuant to the first section of the Act of June 30, 1876 (12 U.S.C. 191).

Courts, U.S.

"(c) Enforcement Under Federal Deposit Insurance Act.—Such terms, conditions, and limitations as may be prescribed under subsection (a)(1) shall be enforceable under the provisions of section 8(i) of the Federal Deposit Insurance Act, to the same extent as an order issued pursuant to section 8(b) of the Federal Deposit Insurance Act which has become final. The bank may bring an action in the United States district court for the judicial district in which the home office of such bank is located or in the United States District Court for the District of Columbia for an order requiring the Comptroller to terminate the order. An action for judicial review of the terms, conditions, and limitations may not be commenced later than 20 days from the date of the termination of the conservatorship or the imposition of the order, whichever is later.

Courts, U.S.

"(d) Action Upon Termination.—

"(1) In general.—Upon termination of the conservatorship under subsection (a)(2), the Federal Deposit Insurance Corporation, as conservator, or when another person is appointed conservator, such other person, shall conclude the affairs of the conservatorship in accordance with paragraph (2).

"(2) Deposit and distribution of proceeds.—(A) Within 180 days of the sale, merger, consolidation, purchase and assumption, change in control, or voluntary dissolution and liquidation, the conservator shall deposit all net proceeds received from the transaction, less any outstanding expenses of the conservatorship, with the United States district court for the judicial district in which the home office of such bank is located and shall cause notice to be published for three consecutive months and notify by mail all known and remaining creditors and shareholders. Within 60 days thereafter, any depositor, creditor, or other claimant of the bank, or any shareholder of the bank may bring an action in interpleader in that court for distribution of the proceeds. The district court shall distribute such funds equitably. If no such action is instituted within one year after the date the funds are deposited with the district court, title to such net proceeds shall revert to the United States and the district court shall remit the funds to the Treasury of the United States.

"(B) The conservator shall be deemed to have discharged all responsibility of the conservatorship upon the deposit of the proceeds with the district court and giving the required notifications.".

SEC. 805. CONSERVATOR; POWERS AND DUTIES.

Section 206 of the Bank Conservation Act (12 U.S.C. 206) is amended to read as follows:

"SEC. 206. CONSERVATOR; POWERS AND DUTIES.

"(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the bank and may operate the bank in its own name unless the Comptroller in the order of appointment limits the conservator's authority.

"(b) SUBJECT TO RULES OF COMPTROLLER.—The conservator shall be subject to such rules, regulations, and orders as the Comptroller from time to time deems appropriate; and, except as otherwise specifically provided in such rules, regulations, or orders or in section 209 of this Act, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations as apply to directors, officers, or employees of a national bank.

"(c) PAYMENT OF DEPOSITORS AND CREDITORS.—The Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors such amounts as in the opinion of the Comptroller may safely be used for that purpose. All depositors and creditors who are similarly situated shall be treated in the same manner.

"(d) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—The conservator and professional employees appointed to represent or assist the conservator shall not be paid amounts greater than are payable to employees of the Federal Government for similar services, except that the Comptroller of the Currency may authorize payment at higher rates (but not in excess of rates prevailing in the private sector), if the Comptroller determines that paying such higher rates is necessary in order to recruit and retain competent personnel.

"(e) EXPENSES.—All expenses of any such conservatorship shall be paid by the bank and shall be a lien upon the bank which shall be prior to any other lien.".

SEC. 806. LIABILITY PROTECTION.

Section 209 of the Bank Conservation Act (12 U.S.C. 209) is amended to read as follows:

"SEC. 209. LIABILITY PROTECTION.

"(a) FEDERAL AGENCY AND EMPLOYEES.—In any case in which the conservator is a Federal agency or an employee of the Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to such conservator's liability for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

"(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct, as determined by a court.

"(c) INDEMNIFICATION.—The Comptroller shall have authority to indemnify the conservator on such terms as the Comptroller deems proper.".

SEC. 807. RULES AND REGULATIONS.

Section 211 of the Bank Conservation Act (12 U.S.C. 211) is amended to read as follows:

"SEC. 211. RULES AND REGULATIONS.

"(a) IN GENERAL.—The Comptroller of the Currency may prescribe such rules and regulations as the Comptroller may deem necessary to carry out the provisions of this Act.

"(b) F.D.I.C. AS CONSERVATOR.—In any case in which the Federal Deposit Insurance Corporation is the conservator, any rules or regulations prescribed by the Comptroller shall be consistent with any rules and regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act.".

SEC. 808. REPEALS.

Sections 207 and 208 of the Bank Conservation Act (12 U.S.C. 207 and 208) are repealed.

TITLE IX—REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

Subtitle A—Expanded Enforcement Powers, Increased Penalties, and Improved Accountability

SEC. 901. INSTITUTION-AFFILIATED PARTIES OF A DEPOSITORY INSTITUTION SUBJECT TO ADMINISTRATIVE ENFORCEMENT ORDERS; SUBSTITUTION OF "DEPOSITORY INSTITUTION" FOR "BANK" IN ENFORCEMENT PROVISIONS.

(a) INSTITUTION-AFFILIATED PARTY DEFINED.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(r) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this Act, the term 'institution-affiliated party' means—

"(1) any committee member, director, officer, or employee of, or agent for, an insured credit union;

"(2) any consultant, joint venture partner, and any other person as determined by the Board (by regulation or on a case-by-case basis) who participates in the conduct of the affairs of an insured credit union; and

"(3) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—

"(A) any violation of any law or regulation;

"(B) any breach of fiduciary duty; or

"(C) any unsafe or unsound practice,

which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured credit union.".

(b) AMENDMENTS RELATING TO USE OF "INSTITUTION-AFFILIATED PARTY".—

(1) FDIA.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(A) in subsection (b)(1)—

(i) by striking out "director, officer, employee, agent, or other person participating in the conduct of the affairs of such a bank" and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "directors, officers, employees, agents, or other persons participating in the conduct of the affairs of such bank" and inserting in lieu thereof "institution-affiliated parties";

(B) in each of subsections (b)(1) and (c)—

(i) by striking out "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank" each place such term appears and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "such director, officer, employee, agent, or other person" each place such term appears and inserting in lieu thereof "such party";

(C) in subsection (e)(4), as so redesignated by section 903(a)(2) of this Act—

(i) by striking out "a director, officer, or other person from office or to prohibit his participation" and inserting in lieu thereof "an institution-affiliated party from office or to prohibit such party from participating";

(ii) by striking out "such director or officer or other person" and inserting in lieu thereof "such party";

(iii) by striking out "such director, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "he" and inserting in lieu thereof "such party";

(v) by striking out "any director, officer or other person" and inserting in lieu thereof "any such party"; and

(vi) by striking out "the director, officer, or other person concerned" and inserting in lieu thereof "such party";

(D) in subsection (e)(5), as so redesignated by section 903(a)(2) of this Act—

(i) by inserting after "the term 'officer' " the following: "within the term 'institution-affiliated party' "; and

(ii) by inserting after "the term 'director' " the following: "within the term 'institution-affiliated party' as used in this subsection";

(E) in subsection (f)—

(i) by striking out "any director, officer, or other person" and inserting in lieu thereof "any institution-affiliated party"; and

(ii) by striking out "such director, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(F) in subsection (g)(1)—

(i) by striking out "director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank" and inserting in lieu thereof "institution-affiliated party";

(ii) by striking out "the individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "such director, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(iv) by striking out "him" each place such term appears and inserting in lieu thereof "such party";

(v) by striking out "director, officer or other person" and inserting in lieu thereof "party"; and

(vi) by striking out "whereupon such director or officer" and inserting in lieu thereof "whereupon such party (if a director or an officer)";

(G) in subsection (g)(3)—

(i) by striking out "the director, officer, or other person concerned" and inserting in lieu thereof "the institution-affiliated party concerned";

(ii) by striking out "such individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "the concerned director, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "the director, officer, or other person" each place such term appears (except in "the director, officer, or other person concerned") and inserting in lieu thereof "such party";

(v) by striking out "said director, officer or other person" and inserting in lieu thereof "such party"; and

(vi) by striking out "the director, officer or other person" and inserting in lieu thereof "such party";

(H) in subsection (h)(2), by striking out "director or officer or other person" and inserting in lieu thereof "institution-affiliated party";

(I) in subsection (l), by striking out "director or officer thereof or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party"; and

(J) in subsection (m), by striking out "director or officer or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party".

(2) FCUA.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(A) in subsection (e)(1)—

(i) by striking out "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union" and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "directors, officers, committee members, employees, agents, or other persons participating in the conduct of the affairs of such credit union" and inserting in lieu thereof "institution-affiliated parties";

(B) in each of subsections (e)(1) and (f)—

(i) by striking out "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union" each place such term appears and inserting in lieu thereof "institution-affiliated party"; and

(ii) by striking out "such director, officer, committee member, employee, agent, or other person" each place such term appears and inserting in lieu thereof "such party"; and

(C) in subsection (f)(1), by striking out "such director, officer, committee member, employee, agents, or other person" and inserting in lieu thereof "such party";

(D) in subsection (i)(1)—

(i) by striking out "director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union" and inserting in lieu thereof "institution-affiliated party";

(ii) by striking out "the individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "such director, committee member, officer, or other person" each place such term appears and inserting in lieu thereof "such party";

(iv) by striking out "him" and inserting in lieu thereof "such party";

(v) by striking out "director, officer or other person" and inserting in lieu thereof "party"; and

(vi) by striking out "whereupon such director, committee member, or officer" and inserting in lieu thereof "whereupon such party (if a director, a committee member, or an officer)";

(E) in subsection (i)(3)—

(i) by striking out "director, committee member, officer, or other person concerned" and inserting in lieu thereof "institution-affiliated party concerned"; and

(ii) by striking out "such individual" each place such term appears and inserting in lieu thereof "such party";

(iii) by striking out "the concerned director, committee member, officer, or other person" and inserting in lieu thereof "such party";

(iv) by striking out "the director, committee member, officer, or other person" each place such term appears (except in "the director, committee member, officer, or other person concerned") and inserting in lieu thereof "such party"; and

(v) by striking out "said director, committee member, officer or other person" and inserting in lieu thereof "such party";

(F) in subsection (j)(2), by striking out "director, officer, committee member, or other person" and inserting in lieu thereof "institution-affiliated party"; and

(G) in subsection (o), by striking out "director, officer, committee member or other person participating in the conduct of its affairs" and inserting in lieu thereof "institution-affiliated party".

(d) SUBSTITUTION OF "DEPOSITORY INSTITUTION" FOR "BANK".—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), as amended by subsection (b)(1) of this section, is amended by striking out "bank" and "banks" each place such terms appear and inserting in lieu thereof "depository institution" and "depository institutions", respectively, except in subsections (b)(3), (b)(4), (m), (o), and (r).

SEC. 902. AMENDMENTS TO CEASE AND DESIST AUTHORITY WITH RESPECT TO RESTITUTION, RESTRICTIONS ON SPECIFIC ACTIVITIES, GROUNDS FOR ISSUANCE OF A TEMPORARY ORDER, AND INCOMPLETE OR INACCURATE RECORDS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—

(1) CEASE AND DESIST AUTHORITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(A) in paragraph (3), by striking out "subsections (c) through (f) and (h) through (n)" and inserting in lieu thereof "subsections (c) through (s) and subsection (u)";

(B) in paragraph (4), by striking out "subsections (c) through (f) and (h) through (n)" and inserting in lieu thereof "subsections (c) through (s) and subsection (u)"; and

(C) by adding at the end thereof the following new paragraphs:

"(6) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority to issue an order under this subsection and subsection (c) which requires an insured depository institution or any institution-affiliated party to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such depository institution or such party to—

"(A) make restitution or provide reimbursement, indemnification, or guarantee against loss if—

"(i) such depository institution or such party was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the appropriate Federal banking agency;

"(B) restrict the growth of the institution;

"(C) dispose of any loan or asset involved;

"(D) rescind agreements or contracts; and

"(E) employ qualified officers or employees (who may be subject to approval by the appropriate Federal banking agency at the direction of such agency); and

"(F) take such other action as the banking agency determines to be appropriate.

"(7) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (c) includes the authority to place limitations on the activities or functions of an insured depository institution or any institution-affiliated party.

"(8) EXPANSION OF AUTHORITY TO SAVINGS AND LOAN AFFILIATES AND ENTITIES.—Subsections (a) through (s) and subsection (u) shall apply to any savings and loan holding company and to any subsidiary (other than a bank or subsidiary of that bank) of a savings and loan holding company, to any service corporation of a savings association and to any subsidiary of such service corporation, whether wholly or partly owned, in the same manner as such subsections apply to a savings association.".

(2) TEMPORARY CEASE AND DESIST AUTHORITY.—Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended—

(A) in paragraph (1)—

(i) by striking out "substantial" and inserting in lieu thereof "significant";

(ii) by striking out "seriously" each place such term appears; and

(iii) by inserting after the 1st sentence the following new sentence: "Such order may include any requirement authorized under subsection (b)(6)(B)."; and

(B) by adding at the end thereof the following new paragraph:

"(3) INCOMPLETE OR INACCURATE RECORDS.—

"(A) TEMPORARY ORDER.—If a notice of charges served under subsection (b)(1) specifies, on the basis of particular facts and circumstances, that an insured depository institution's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable, through the normal supervisory process, to determine the financial condition of that depository institution or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that depository institution, the agency may issue a temporary order requiring—

"(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

"(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1).

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

"(I) the completion of the proceeding initiated under subsection (b)(1) in connection with the notice of charges; or

"(II) the date the appropriate Federal banking agency determines, by examination or otherwise, that the insured depository institution's books and records are accurate and reflect the financial condition of the depository institution.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—

(1) CEASE AND DESIST AUTHORITY.—Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.—The authority to issue an order under this subsection and subsection (f) which requires an insured credit union or any institution-affiliated party to take affirmative action to correct any conditions resulting from any violation or practice with respect to which such order is issued includes the authority to require such insured credit union or such party to—

"(A) make restitution or provide reimbursement, indemnification, or guarantee against loss if—

"(i) such credit union or such party was unjustly enriched in connection with such violation or practice; or

"(ii) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Board;

"(B) restrict the growth of the institution;

"(C) rescind agreements or contracts;

"(D) dispose of any loan or asset involved; and

"(E) employ qualified officers or employees (who may be subject to approval by the Board at the direction of such Board); and

"(F) take such other action as the Board determines to be appropriate.

"(4) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (f) includes the authority to place limitations on the activities or functions of an insured credit union or any institution-affiliated party.".

(2) TEMPORARY CEASE AND DESIST AUTHORITY.—Section 206(f) of the Federal Credit Union Act (12 U.S.C. 1786(f)) is amended—

(A) by redesignating paragraph (3) as paragraph (4);

(B) in paragraph (1)—

(i) by striking out "substantial" and inserting in lieu thereof "significant";

(ii) by striking out "seriously" each place such term appears; and

(iii) by inserting after the 1st sentence the following new sentence: "Such order may include any requirement authorized under subsection (e)(3)(B)."; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) INCOMPLETE OR INACCURATE RECORDS.—

"(A) TEMPORARY ORDER.—If a notice of charges served under subsection (e)(1) specifies, on the basis of particular facts and circumstances, that an insured credit union's books and records are so incomplete or inaccurate that the Board is unable, through the normal supervisory process, to determine the financial condition of that insured credit union or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that insured credit union, the Board may issue a temporary order requiring—

"(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

"(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (e)(1).

"(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

"(i) shall become effective upon service; and "(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

"(I) the completion of the proceeding initiated under subsection (e)(1) in connection with the notice of charges; or

"(II) the date the Board determines, by examination or otherwise, that the insured credit union's books and records are accurate and reflect the financial condition of the credit union.".

SEC. 903. MERGER OF REMOVAL AND PROHIBITION AUTHORITY.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—

(1) IN GENERAL.—Section 8(e)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(1)) is amended to read as follows:

"(e) REMOVAL AND PROHIBITION AUTHORITY.—

"(1) AUTHORITY TO ISSUE ORDER.—Whenever the appropriate Federal banking agency determines that—

"(A) any institution-affiliated party has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such depository institution; or

"(IV) any written agreement between such depository institution and such agency;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured depository institution or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(i) such insured depository institution or business institution has suffered or will probably suffer financial loss or other damage;

"(ii) the interests of the insured depository institution's depositors have been or could be prejudiced; or

"(iii) such party has received financial gain or other benefit by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach—

"(i) involves personal dishonesty on the part of such party; or

"(ii) demonstrates willful or continuing disregard by such party for the safety or soundness of such insured depository institution or business institution,

the agency may serve upon such party a written notice of the agency's intention to remove such party from office or to prohibit any further participation by such party, in any manner, in the conduct of the affairs of any insured depository institution.".

(2) **Temporary suspension or prohibition.**—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by striking out paragraphs (2) and (4), by redesignating paragraphs (3), (5), and (6) as paragraphs (2), (4), and (5), respectively, and by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) **Suspension order.**—

"(A) **Suspension or prohibition authorized.**—If the appropriate Federal banking agency serves written notice under paragraph (1) or (2) to any institution-affiliated party of such agency's intention to issue an order under such paragraph, the appropriate Federal banking agency may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution, if the agency—

"(i) determines that such action is necessary for the protection of the depository institution or the interests of the depository institution's depositors; and

"(ii) serves such party with written notice of the suspension order.

"(B) **Effective period.**—Any suspension order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless a court issues a stay of such order under subsection (f), shall remain in effect and enforceable until—

"(I) the date the appropriate Federal banking agency dismisses the charges contained in the notice served under paragraph (1) or (2) with respect to such party; or

"(II) the effective date of an order issued by the agency to such party under paragraph (1) or (2).

"(C) **Copy of order.**—If an appropriate Federal banking agency issues a suspension order under subparagraph (A) to any institution-affiliated party, the agency shall serve a copy of such order on any insured depository institution with which such party is associated at the time such order is issued.".

(3) **Prohibition of certain specific activities.**—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding after paragraph (5) (as so redesignated by paragraph (2) of this subsection) the following new paragraph:

"(6) **Prohibition of certain specific activities.**—Any person subject to an order issued under this subsection shall not—

"(A) participate in any manner in the conduct of the affairs of any institution or agency specified in paragraph (7)(A);

"(B) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in subparagraph (A);

"(C) violate any voting agreement previously approved by the appropriate Federal banking agency; or

"(D) vote for a director, or serve or act as an institution-affiliated party.".

(4) **Conforming amendments.**—

(A) Section 8(f) of the Federal Deposit Insurance Act (12 U.S.C. 1818(f)) is amended—

(i) by striking out "(e)(4)" and inserting in lieu thereof "(e)(3)"; and

(ii) by striking out "(e)(1), (e)(2), or (e)(3)" and inserting in lieu thereof "(e)(1) or (e)(2)".

(B) Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking out "(1), (2), (3), or (4)" and inserting in lieu thereof "(1), (2), or (3)".

(b) CREDIT UNIONS INSURED BY THE NCUA.—

(1) IN GENERAL.—Section 206(g)(1) of the Federal Credit Union Act (12 U.S.C. 1786(g)(1)) is amended to read as follows:

"(g) REMOVAL AND PROHIBITION AUTHORITY.—

"(1) AUTHORITY TO ISSUE ORDER.—Whenever the Board determines that—

"(A) any institution-affiliated party has, directly or indirectly—

"(i) violated—

"(I) any law or regulation;

"(II) any cease-and-desist order which has become final;

"(III) any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(IV) any written agreement between such credit union and the Board;

"(ii) engaged or participated in any unsafe or unsound practice in connection with any insured credit union or business institution; or

"(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

"(B) by reason of the violation, practice, or breach described in any clause of subparagraph (A)—

"(i) such insured credit union or business institution has suffered or will probably suffer financial loss or other damage;

"(ii) the interests of the insured credit union's members have been or could be prejudiced; or

"(iii) such party has received financial gain or other benefit by reason of such violation, practice or breach; and

"(C) such violation, practice, or breach—

"(i) involves personal dishonesty on the part of such party; or

"(ii) demonstrates such party's unfitness to serve as a director or officer of, or to otherwise participate in the conduct of the affairs of, an insured credit union,

the Board may serve upon such party a written notice of the Board's intention to remove such party from office or to prohibit any further participation, by such party, in any manner in the conduct of the affairs of any insured credit union.".

(2) TEMPORARY SUSPENSION OR PROHIBITION.—Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by striking out paragraphs (2) and (4), by redesignating paragraphs (3) and (5) as paragraphs (2) and (4), respectively, and by insert-

ing after paragraph (2) (as so redesignated) the following new paragraph:

"(3) SUSPENSION ORDER.—

"(A) SUSPENSION OR PROHIBITION AUTHORIZED.—If the Board serves written notice under paragraph (1) or (2) to any institution-affiliated party of the Board's intention to issue an order under such paragraph, the Board may suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the institution, if the Board—

"(i) determines that such action is necessary for the protection of the credit union or the interests of the credit union's members; and

"(ii) serves such person with written notice of the suspension order.

"(B) EFFECTIVE PERIOD.—Any suspension order issued under subparagraph (A)—

"(i) shall become effective upon service; and

"(ii) unless a court issues a stay of such order under paragraph (6), shall remain in effect and enforceable until—

"(I) the date the Board dismisses the charges contained in the notice served under paragraph (1) or (2) with respect to such party; or

"(II) the effective date of an order issued by the Board to such person under paragraph (1) or (2).

"(C) COPY OF ORDER.—If the Board issues a suspension order under subparagraph (A) to any institution-affiliated party, the Board shall serve a copy of such order on any insured credit union with which such party is associated at the time such order is issued.".

(3) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES REQUIRED.—Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended by adding after paragraph (4) (as so redesignated by paragraph (2) of this subsection) the following new paragraph:

"(5) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this subsection shall not—

"(A) participate in any manner in the conduct of the affairs of any institution or agency specified in paragraph (7)(A);

"(B) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in subparagraph (A);

"(C) violate any voting agreement previously approved by the appropriate Federal banking agency; or

"(D) vote for a director, or serve or act as an institution-affiliated party.".

(4) CONFORMING AMENDMENTS.—Section 206(g)(6) of the Federal Credit Union Act (12 U.S.C. 1786(g)(6)) is amended—

(A) by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)"; and

(B) by striking out "(1), (2), or (3)" and inserting in lieu thereof "(1) or (2)".

(e) Effective Date.—The amendments made by this section shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act.

12 USC 1786 note.

SEC. 904. INDUSTRYWIDE APPLICATION OF REMOVAL, SUSPENSION, AND PROHIBITION ORDERS.

(a) Depository Institutions Insured by the FDIC.—Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by inserting after the paragraph added by section 903(a)(3) of this Act the following new paragraph:

"(7) Industrywide Prohibition.—

"(A) In general.—Except as provided in subparagraph (B), any person who, pursuant to an order issued under this subsection or subsection (g), has been removed or suspended from office in an insured depository institution or prohibited from participating in the conduct of the affairs of an insured depository institution may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

"(i) any insured depository institution;

"(ii) any institution treated as an insured bank under subsection (b)(3) or (b)(4), or as a savings association under subsection (b)(8);

"(iii) any insured credit union under the Federal Credit Union Act;

"(iv) any institution chartered under the Farm Credit Act of 1971;

"(v) any appropriate Federal depository institution regulatory agency;

"(vi) the Federal Housing Finance Board and any Federal home loan bank; and

"(vii) the Resolution Trust Corporation.

"(B) Exception if agency provides written consent.—If, on or after the date an order is issued under this subsection which removes or suspends from office any institution-affiliated party or prohibits such party from participating in the conduct of the affairs of an insured depository institution, such party receives the written consent of—

"(i) the agency that issued such order; and

"(ii) the appropriate Federal financial institutions regulatory agency of the institution described in any clause of subparagraph (A) with respect to which such party proposes to become an institution-affiliated party,

subparagraph (A) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent. Any agency that grants such a written consent shall report such action to the Corporation and publicly disclose such consent.

Reports.
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"(C) Violation of paragraph treated as violation of order.—Any violation of subparagraph (A) by any person who is subject to an order described in such subparagraph shall be treated as a violation of the order.

"(D) Appropriate federal financial institutions regulatory agency defined.—For purposes of this paragraph and subsection (j), the term "appropriate Federal financial institutions regulatory agency" means—

"(i) the appropriate Federal banking agency, in the case of an insured depository institution;

"(ii) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

"(iii) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(iv) the Secretary of the Treasury, in the case of the Federal Housing Finance Board and any Federal home loan bank; and

"(v) the Oversight Board, in the case of the Resolution Trust Corporation.

"(E) Consultation between agencies.—The agencies referred to in clauses (i) and (ii) of subparagraph (B) shall consult with each other before providing any written consent described in subparagraph (B).

"(F) Applicability.—This paragraph shall only apply to a person who is an individual, unless the appropriate Federal banking agency specifically finds that it should apply to a corporation, firm, or other business enterprise.".

(b) Credit Unions Insured by the NCUA.—Section 206(g)(7) of the Federal Credit Union Act (12 U.S.C. 1786(g)(7)) is amended to read as follows:

"(7) Industrywide Prohibition.—

"(A) In general.—Except as provided in subparagraph (B), any person who, pursuant to an order issued under this subsection or subsection (i), has been removed or suspended from office in an insured credit union or prohibited from participating in the conduct of the affairs of an insured credit union may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of—

"(i) any insured depository institution;

"(ii) any institution treated as an insured bank under paragraph (3) or (4) of section 8(b) of the Federal Deposit Insurance Act, or as a savings association under section 8(b)(8) of such Act;

"(iii) any insured credit union;

"(iv) any institution chartered under the Farm Credit Act of 1971;

"(v) any appropriate Federal depository institution regulatory agency;

"(vi) the Federal Housing Finance Board and any Federal home loan bank; and

"(vii) the Resolution Trust Corporation.

"(B) Exception if agency provides written consent.—If, on or after the date an order is issued under this subsection which removes or suspends from office any institution-affiliated party or prohibits such party from participating in the conduct of the affairs of an insured credit union, such party receives the written consent of—

"(i) the Board; and

"(ii) the appropriate Federal financial institutions regulatory agency of the institution described in any clause of subparagraph (A) with respect to which such party proposes to become an institution-affiliated party,

subparagraph (A) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent. If any person receives such a written consent from the Board, the Board shall publicly disclose such consent. If the agency referred to in clause (ii) grants such a written consent, such agency shall report such action to the Board and publicly disclose such consent.

Reports.
Public information.

"(C) VIOLATION OF PARAGRAPH TREATED AS VIOLATION OF ORDER.—Any violation of subparagraph (A) by any person who is subject to an order described in such subparagraph shall be treated as a violation of the order.

"(D) APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCY DEFINED.—For purposes of this paragraph and subsection (l), the term "appropriate Federal financial institutions regulatory agency" means—

"(i) the appropriate Federal banking agency, as provided in section 3(q) of the Federal Deposit Insurance Act;

"(ii) the Farm Credit Administration, in the case of an institution chartered under the Farm Credit Act of 1971;

"(iii) the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(iv) the Secretary of the Treasury, in the case of the Federal Housing Finance Board and any Federal home loan bank; and

"(v) the Oversight Board, in the case of the Resolution Trust Corporation.

"(E) CONSULTATION BETWEEN AGENCIES.—The agencies referred to in clauses (i) and (ii) of subparagraph (B) shall consult with each other before providing any written consent described in subparagraph (B).

"(F) APPLICABILITY.—This paragraph shall only apply to a person who is an individual, unless the Board specifically finds that it should apply to a corporation, firm, or other business enterprise.".

SEC. 905. ENFORCEMENT PROCEEDINGS ALLOWED AFTER SEPARATION FROM SERVICE.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following new paragraph:

"(3) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the closing of an insured depository institution) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such depository institution (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(b) Credit Unions Insured by the NCUA.—Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by adding at the end thereof the following new paragraph:

"(3) Notice under this section after separation from service.—The resignation, termination of employment or participation, or separation of a institution-affiliated party (including a separation caused by the closing of an insured credit union) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such credit union (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(c) Change in Control of Depository Institution.—Section 7(j)(15) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(15)) is amended by adding at the end thereof the following new sentence: "The resignation, termination of employment or participation, divestiture of control, or separation of or by an institution-affiliated party (including a separation caused by the closing of a depository institution) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this subsection against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such depository institution (whether such date occurs before, on, or after the date of the enactment of this sentence).".

(d) Nonmember Insured Banks and Savings Associations.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end the following new paragraph:

"(6) Notice under this section after separation from service.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (including a separation caused by the closing of a nonmember bank or a savings association) shall not affect the jurisdiction and authority of the Corporation or the Director of the Office of Thrift Supervision, as appropriate, to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such nonmember bank or such savings association (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

(e) National Banks.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end thereof the following new subsection:

"(c) Notice Under This Section After Separation From Service.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such an association (including a separation caused by the closing of such an association) shall not affect the jurisdiction and authority of the Comptroller of the Currency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such association (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(f) MEMBER BANKS.—Section 29 of the Federal Reserve Act (12 U.S.C. 504(a)), as added by section 907(g) of this Act, is amended by adding at the end the following new subsection:

"(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(g) MEMBER BANKS.—Section 19 of the Federal Reserve Act (12 U.S.C. 505) is amended by adding at the end thereof the following new subsection: 12 USC 506.

"(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(h) BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended by adding at the end the following new subparagraph:

"(I) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such a bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the appropriate Federal banking agency to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subparagraph).".

(i) BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended by adding at the end the following new subsection:

"(c) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a bank holding company (including a separation caused by the deregistration of such a company) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company (whether such date occurs before, on, or after the date of the enactment of this subsection).".

(j) SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(i) of the Home Owners' Loan Act (as amended by section 301 of this Act) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after the date of the enactment of this paragraph).".

SEC. 906 EXPANSION OF REMOVAL POWERS FOR STATE CRIMINAL PROCEEDINGS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(1) in the 1st sentence, by striking "authorized by a United States attorney"; and

(2) in the 4th sentence, by striking "with respect to such crime" and inserting in lieu thereof "or an agreement to enter a pre-trial diversion or other similar program".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended—

(1) in the 1st sentence, by striking "authorized by a United States Attorney"; and

(2) in the 4th sentence, by striking "with respect to such crime" and inserting in lieu thereof "or an agreement to enter a pre-trial diversion or other similar program".

SEC. 907. AMENDMENTS TO EXPAND AND INCREASE CIVIL MONEY PENALTIES.

(a) GENERAL PROVISIONS FOR DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) is amended to read as follows:

"(2) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any insured depository institution which, and any institution-affiliated party who—

"(i) violates any law or regulation;

"(ii) violates any final order or temporary order issued pursuant to subsection (b), (c), (e), (g), or (s);

"(iii) violates any condition imposed in writing by the appropriate Federal banking agency in connection with the grant of any application or other request by such depository institution; or

"(iv) violates any written agreement between such depository institution and such agency, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any insured depository institution which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such insured depository institution; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such depository institution; or

"(III) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any insured depository institution which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such depository institution; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such depository institution or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than an insured depository institution, an amount to not exceed $1,000,000; and

"(ii) in the case of any insured depository institution, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such institution.

"(E) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any penalty imposed under subparagraph (A), (B), or (C) may be assessed and collected by the appropriate Federal banking agency by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), a hearing is not requested pursuant to subparagraph (H) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(F) AUTHORITY TO MODIFY OR REMIT PENALTY.—Any appropriate Federal banking agency may compromise, modify, or remit any penalty which such agency may assess or had already assessed under subparagraph (A), (B), or (C).

"(G) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A), (B), or (C), the appropriate agency shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the insured depository institution or other person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(H) HEARING.—The insured depository institution or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

"(I) COLLECTION.—

"(i) REFERRAL.—If any insured depository institution or other person fails to pay an assessment after any penalty assessed under this paragraph has become final, the agency that imposed the penalty shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(K) REGULATIONS.—Each appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(b) GENERAL PROVISIONS FOR CREDIT UNIONS INSURED BY THE NCUA.—Section 206(k)(2) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)) is amended to read as follows:

"(2) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any insured credit union which, and any institution-affiliated party who—

"(i) violates any law or regulation;

"(ii) violates any final order or temporary order issued pursuant to subsection (e), (f), (g), (i), or (q);

"(iii) violates any condition imposed in writing by the Board in connection with the grant of any application or other request by such credit union; or

"(iv) violates any written agreement between such credit union and such agency, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any insured credit union which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such credit union; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such credit union; or

"(III) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any insured credit union which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such credit union; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such credit union or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (C).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than an insured credit union, an amount to not exceed $1,000,000; and

"(ii) in the case of any insured credit union, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such credit union.

"(E) ASSESSMENT.—

"(i) WRITTEN NOTICE.—Any penalty imposed under subparagraph (A), (B), or (C) may be assessed and collected by the Board by written notice.

"(ii) FINALITY OF ASSESSMENT.—If, with respect to any assessment under clause (i), a hearing is not requested pursuant to subparagraph (H) within the period of time allowed under such subparagraph, the assessment shall constitute a final and unappealable order.

"(F) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Board may compromise, modify, or remit any penalty which such agency may assess or had already assessed under subparagraph (A), (B), or (C).

"(G) MITIGATING FACTORS.—In determining the amount of any penalty imposed under subparagraph (A), (B), or (C), the Board shall take into account the appropriateness of the penalty with respect to—

"(i) the size of financial resources and good faith of the insured credit union or the person charged;

"(ii) the gravity of the violation;

"(iii) the history of previous violations; and

"(iv) such other matters as justice may require.

"(H) HEARING.—The insured credit union or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or person submits a request for such hearing within 20 days after the issuance of the notice of assessment.

"(I) COLLECTION.—

"(i) REFERRAL.—If any insured credit union or other person fails to pay an assessment after any penalty assessed under this paragraph has become final, the Board shall recover the amount assessed by action in the appropriate United States district court.

"(ii) APPROPRIATENESS OF PENALTY NOT REVIEWABLE.—In any civil action under clause (i), the validity and appropriateness of the penalty shall not be subject to review.

"(J) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(K) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(L) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

(c) NONMEMBER INSURED BANKS AND SAVINGS ASSOCIATIONS.—Paragraphs (4) and (5) of section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) are amended to read as follows:

"(4) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any nonmember insured bank or savings association which, and any institution-affiliated party who, violates any provision of section 22(h), 23A, or 23B of the Federal Reserve Act or any lawful regulation issued pursuant thereto, and any nonmember insured bank which, and any institution-affiliated party who, violates any provision of section 20 of the Banking Act of 1933, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any nonmember insured bank or savings association which, and any institution-affiliated party who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of such bank or association, as the case may be; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) results in more than a minimal loss to such bank or association, as the case may be; or

"(III) causes or is likely to cause pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) Third tier.—Notwithstanding subparagraphs (A) and (B), any nonmember insured bank or savings association which, and any institution-affiliated party who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of such bank or association; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such bank or association or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) Maximum amounts of penalties for any violation described in subparagraph (c).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than a nonmember insured bank or savings association, an amount to not exceed $1,000,000; and

"(ii) in the case of any nonmember insured bank or savings association, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such bank or association.

"(E) Assessment; etc.—Any penalty imposed under subparagraph (A), (B), or (C) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(F) Hearing.—The nonmember insured bank, savings association, or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such nonmember insured bank, savings association, or other person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.

"(G) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(5) REGULATIONS.—The appropriate Federal banking agency shall prescribe regulations establishing such procedures as may be necessary to carry out paragraph (4).".

(d) CHANGE IN CONTROL OF DEPOSITORY INSTITUTION.—Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16) CIVIL MONEY PENALTY.—

"(A) FIRST TIER.—Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency under this subsection, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), any person who—

"(i)(I) commits any violation described in any clause of subparagraph (A);

"(II) recklessly engages in an unsafe or unsound practice in conducting the affairs of a depository institution; or

"(III) breaches any fiduciary duty;

"(ii) which violation, practice, or breach—

"(I) is part of a pattern of misconduct;

"(II) causes or is likely to cause more than a minimal loss to such institution; or

"(III) results in pecuniary gain or other benefit to such person,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), any person who—

"(i) knowingly—

"(I) commits any violation described in any clause of subparagraph (A);

"(II) engages in any unsafe or unsound practice in conducting the affairs of a depository institution; or

"(III) breaches any fiduciary duty; and

"(ii) knowingly or recklessly causes a substantial loss to such institution or a substantial pecuniary gain or other benefit to such person by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subparagraph (D) for each day during which such violation, practice, or breach continues.

"(D) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBPARAGRAPH (c).—The maximum daily amount of any civil penalty which may be assessed pursuant to subparagraph (C) for any violation, practice, or breach described in such subparagraph is—

"(i) in the case of any person other than a depository institution, an amount to not exceed $1,000,000; and

"(ii) in the case of a depository institution, an amount not to exceed the lesser of—

"(I) $1,000,000; or

"(II) 1 percent of the total assets of such institution.

"(E) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A), (B), or (C) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(F) HEARING.—The depository institution or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such institution or other person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.

"(G) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.".

(e) NATIONAL BANKS.—Section 5239(b) of the Revised Statutes (12 U.S.C. 93(b)) is amended to read as follows:

"(b) CIVIL MONEY PENALTY.—

"(1) FIRST TIER.—Any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who, violates any provision of this title or any of the provisions of the first section of the Act of September 28, 1962, (76 Stat. 668; 12 U.S.C. 92a), or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(2) SECOND TIER.—Notwithstanding paragraph (1), any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who, commits any violation described in paragraph (1) which—

"(A)(i) commits any violation described in any paragraph (1);

"(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such association; or

"(iii) breaches any fiduciary duty;

"(B) which violation, practice, or breach—

"(i) is part of a pattern of misconduct;

"(ii) causes or is likely to cause more than a minimal loss to such association; or

"(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(3) Third tier.—Notwithstanding paragraphs (1) and (2), any national banking association which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such association who—

"(A) knowingly—

"(i) commits any violation described in paragraph (1);

"(ii) engages in any unsafe or unsound practice in conducting the affairs of such association; or

"(iii) breaches any fiduciary duty; and

"(B) knowingly or recklessly causes a substantial loss to such association or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

"(4) Maximum amounts of penalties for any violation described in paragraph (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

"(A) in the case of any person other than a national banking association, an amount to not exceed $1,000,000; and

"(B) in the case of a national banking association, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such association.

"(5) Assessment; etc.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(6) Hearing.—The association or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such association or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(7) Disbursement.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(8) Violate defined.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(12) Regulations.—The Comptroller shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(f) National Banks.—The 2d paragraph of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking "$100" and inserting "$5,000".

(g) Member Banks.—Section 29 of the Federal Reserve Act (12 U.S.C. 504) is amended to read as follows:

"**SEC. 29. CIVIL MONEY PENALTY.**

"(a) FIRST TIER.—Any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who, violates any provision of section 22, 23A, or 23B, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(b) SECOND TIER.—Notwithstanding subsection (a), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who

"(1)(A) commits any violation described in subsection (a);

"(B) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

"(C) breaches any fiduciary duty;

"(2) which violation, practice, or breach—

"(A) is part of a pattern of misconduct;

"(B) causes or is likely to cause more than a minimal loss to such member bank; or

"(C) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(c) THIRD TIER.—Notwithstanding subsections (a) and (b), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

"(1) knowingly—

"(A) commits any violation described in subsection (a);

"(B) engages in any unsafe or unsound practice in conducting the affairs of such credit union; or

"(C) breaches any fiduciary duty; and

"(2) knowingly or recklessly causes a substantial loss to such credit union or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under subsection (d) for each day during which such violation, practice, or breach continues.

"(d) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN SUBSECTION (c).—The maximum daily amount of any civil penalty which may be assessed pursuant to subsection (c) for any violation, practice, or breach described in such subsection is—

"(1) in the case of any person other than a member bank, an amount to not exceed $1,000,000; and

"(2) in the case of a member bank, an amount not to exceed the lesser of—

"(A) $1,000,000; or

"(B) 1 percent of the total assets of such member bank.

"(e) ASSESSMENT; ETC.—Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected by

"(1) in the case of a national bank, by the Comptroller of the Currency; and

"(2) in the case of a State member bank, by the Board, in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(f) Hearing.—The member bank or other person against whom any penalty is assessed under this section shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(g) Disbursement.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(h) Violate Defined.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(i) Regulations.—The Comptroller of the Currency and the Board shall prescribe regulations establishing such procedures as may be necessary to carry out this section.".

(h) Member Bank.—Section 19(l) of the Federal Reserve Act (12 U.S.C. 505(l)) is amended to read as follows:

"(l) Civil Money Penalty.—

"(1) First tier.—Any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(2) Second tier.—Notwithstanding paragraph (1), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

"(A)(i) commits any violation described in paragraph (1);

"(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

"(iii) breaches any fiduciary duty;

"(B) which violation, practice, or breach—

"(i) is part of a pattern of misconduct;

"(ii) causes or is likely to cause more than a minimal loss to such member bank; or

"(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(3) Third tier.—Notwithstanding paragraphs (1) and (2), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

"(A) knowingly—

"(i) commits any violation described in paragraph (1);

"(ii) engages in any unsafe or unsound practice in conducting the affairs of such member bank; or

"(iii) breaches any fiduciary duty; and

"(B) knowingly or recklessly causes a substantial loss to such member bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

"(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

"(A) in the case of any person other than a member bank, an amount not to exceed $1,000,000; and

"(B) in the case of a member bank, an amount not to exceed the lesser of—

"(i) $1,000,000; or

"(ii) 1 percent of the total assets of such member bank.

"(5) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(6) HEARING.—The member bank or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(7) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(8) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(9) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(i) BANKS.—Section 106(b)(2)(F) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)) is amended to read as follows:

"(F) CIVIL MONEY PENALTY.—

"(i) FIRST TIER.—Any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who, violates any provision of this paragraph shall forfeit and pay a civil penalty of not more than $5,000 for each day during which such violation continues.

"(ii) SECOND TIER.—Notwithstanding clause (i), any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who—

"(I)(aa) commits any violation described in clause (i);

"(bb) recklessly engages in an unsafe or unsound practice in conducting the affairs of such bank; or "(cc) breaches any fiduciary duty;

"(II) which violation, practice, or breach—

"(aa) is part of a pattern of misconduct;

"(bb) causes or is likely to cause more than a minimal loss to such bank; or

"(cc) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation, practice, or breach continues.

"(iii) THIRD TIER.—Notwithstanding clauses (i) and (ii), any bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such bank who—

"(I) knowingly—

"(aa) commits any violation described in clause (i);

"(bb) engages in any unsafe or unsound practice in conducting the affairs of such bank; or

"(cc) breaches any fiduciary duty; and

"(II) knowingly or recklessly causes a substantial loss to such bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under clause (iv) for each day during which such violation, practice, or breach continues.

"(iv) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN CLAUSE (iii).—The maximum daily amount of any civil penalty which may be assessed pursuant to clause (iii) for any violation, practice, or breach described in such clause is—

"(I) in the case of any person other than a bank, an amount to not exceed $1,000,000; and

"(II) in the case of a bank, an amount not to exceed the lesser of—

"(aa) $1,000,000; or

"(bb) 1 percent of the total assets of such bank.

"(v) ASSESSMENT; ETC.—Any penalty imposed under clause (i), (ii), or (iii) may be assessed and collected—

"(I) in the case of a national bank, by the Comptroller of the Currency;

"(II) in the case of a State member bank, by the Board; and

"(III) in the case of an insured nonmember State bank, by the Federal Deposit Insurance Corporation,

in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(vi) HEARING.—The bank or other person against whom any penalty is assessed under this subparagraph shall be afforded an agency hearing if such bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subparagraph.

"(vii) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(viii) Violate defined.—For purposes of this paragraph, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ix) Regulations.—The Comptroller of the Currency, the Board, and the Federal Deposit Insurance Corporation shall prescribe regulations establishing such procedures as may be necessary to carry out this subparagraph.".

(j) Bank Holding Companies.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended—

(1) in subsection (a), by striking out the first 2 sentences and inserting in lieu thereof the following:

"(a) Criminal Penalty.—

"(1) Whoever knowingly violates any provision of this Act or, being a company, violates any regulation or order issued by the Board under this Act, shall be imprisoned not more than 1 year, fined not more than $100,000 per day for each day during which the violation continues, or both.

"(2) Whoever, with the intent to deceive, defraud, or profit significantly, knowingly violates any provision of this Act shall be imprisoned not more than 5 years, fined not more than $1,000,000 per day for each day during which the violation continues, or both."; and

(2) by amending subsection (b) to read as follows:

"(b) Civil Money Penalty.—

"(1) Penalty.—Any company which violates, and any individual who participates in a violation of, any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) Assessment; etc.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(3) Hearing.—The company or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such association or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(4) Disbursement.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

"(5) Violate defined.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) Regulations.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.".

(k) Savings and Loan Holding Companies.—Section 10(i) of the Home Owners Loan Act of 1933 (as amended by section 301 of this Act) is amended—

(1) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) Criminal penalty.—

"(A) Whoever knowingly violates any provision of this section or being a company, violates any regulation or order issued by the Director under this section, shall be imprisoned not more than 1 year, fined not more than $100,000 per day for each day during which the violation continues, or both.

"(B) Whoever, with the intent to deceive, defraud, or profit significantly, knowingly violates any provision of this section shall be fined not more than $1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.";

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(3) by amending paragraph (3) (as so redesignated by paragraph (2) of this subsection) to read as follows:

"(3) CIVIL MONEY PENALTY.—

"(A) PENALTY.—Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(B) ASSESSMENT; ETC.—Any penalty imposed under subparagraph (A) may be assessed and collected by the Director in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

"(C) HEARING.—The company or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.

"(D) DISBURSEMENT.—All penalties collected under authority of this paragraph shall be deposited into the Treasury.

"(E) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(F) REGULATIONS.—The Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.".

12 USC 93 note.

(l) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to conduct engaged in by any person after the date of the enactment of this Act, except that the increased maximum civil penalties of $5,000 and $25,000 per violation or per day may apply to such conduct engaged in before such date if such conduct—

(1) is not already subject to a notice (initiating an administrative proceeding) issued by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) or the National Credit Union Administration Board; and

(2) occurred after the completion of the last report of examination of the institution involved by the appropriate Federal

banking agency (as so defined) occurring before the date of the enactment of this Act.

SEC. 908. CLARIFICATION OF CRIMINAL PENALTY PROVISIONS FOR VIOLATION OF CERTAIN ORDERS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended to read as follows:

"(j) CRIMINAL PENALTY.—Whoever, being subject to an order in effect under subsection (e) or (g), without the prior written approval of the appropriate Federal financial institutions regulatory agency, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in subsection (e)(6)) in the conduct of the affairs of—

"(1) any insured depository institution;

"(2) any institution treated as an insured bank under subsection (b)(3) or (b)(4), or as a savings association under subsection (b)(8);

"(3) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(4) any institution chartered under the Farm Credit Act of 1971; or

"(5) the Resolution Trust Corporation,

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Section 206(l) of the Federal Credit Union Act (12 U.S.C. 1786(l)) is amended to read as follows:

"(l) CRIMINAL PENALTY FOR VIOLATION OF CERTAIN ORDERS.—Whoever—

"(1) under this Act, is suspended or removed from, or prohibited from participating in the affairs of any credit union described in section 206(g)(5); and

"(2) knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in subsection (g)(5)) in the conduct of the affairs of such a credit union;

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

SEC. 909. SUPERVISORY RECORDS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (m) (as added by section 214 of this Act) the following new subsection:

"(o) SUPERVISORY RECORDS.—In addition to the requirements of section 7(a)(2) to provide to the Corporation copies of reports of examination and reports of condition, whenever the Corporation has been appointed as receiver for an insured depository institution, the appropriate Federal banking agency shall make available all supervisory records to the receiver which may be used by the receiver in any manner the receiver determines to be appropriate.".

SEC. 910. INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUALS.

(a) BANKS INSURED BY THE FDIC.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"SEC. 19. PENALTY FOR UNAUTHORIZED PARTICIPATION BY CONVICTED INDIVIDUAL.

"(a) **Prohibition.**—Except with the prior written consent of the Corporation—

"(1) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured depository institution; and

"(2) an insured depository institution may not permit such participation.

"(b) **Penalty.**—Whoever knowingly violates subsection (a) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(b) **Credit Unions Insured by the NCUA.**—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) **Penalty for Prohibited Participation.**—

"(1) **Prohibition.**—Except with the prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of an insured credit union; and

"(B) an insured credit union may not permit such participation.

"(2) **Penalty.**—Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 911. AMENDMENTS TO VARIOUS PROVISIONS OF LAW RELATING TO REPORTS.

(a) **Bank Protection Act.**—Section 3(b) of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking out "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) **Amendments Relating to National Banks.**—

(1) Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(A) in the 5th sentence of subsection (a), by striking out "within ten days after the receipt of a request therefor from him" and inserting in lieu thereof "within the period of time specified by the Comptroller"; and

(B) in subsection (c), by striking out the last sentence.

(2) Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended to read as follows:

"SEC. 5213. PENALTY FOR FAILURE TO MAKE REPORTS.

"(a) **First Tier.**—Any association which—

"(1) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

"(A) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 5211 of this chapter, within the period of time specified by the Comptroller; or

"(B) submits or publishes any false or misleading report or information; or

"(2) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The association shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(b) SECOND TIER.—Any association which—

"(1) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 5211 of this chapter, within the period of time specified by the Comptroller; or

"(2) submits or publishes any false or misleading report or information,

in a manner not described in subsection (a) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(c) THIRD TIER.—Notwithstanding subsections (a) and (b), if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (b) submits or publishes any false or misleading report or information, the Comptroller may assess a penalty of not more than $1,000,000 or 1 percent of total assets of the association, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(d) ASSESSMENT; ETC.—Any penalty imposed under subsection (a), (b), or (c) shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(e) HEARING.—Any association against which any penalty is assessed under this subsection shall be afforded an agency hearing if such association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.".

(c) AMENDMENT RELATING TO STATE NONMEMBER INSURED BANKS.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentences: "Any such bank which (A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Corporation, or submits or publishes any false or misleading report or information, or (B) inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any such bank which fails to make or publish any report required under this paragraph, within the period of time specified by the Corporation, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any such bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Corporation may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any such bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) shall apply to any proceeding under this paragraph.".

(d) AMENDMENT RELATING TO STATE MEMBER BANKS.—The 6th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking out the penultimate sentence and inserting in lieu thereof the following new sentences: "Any bank which (A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to make or publish any report required under this paragraph, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or (B) inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The bank shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any bank which fails to make or publish such reports within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any bank knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any bank against which any penalty is assessed under this subsection shall be afforded an agency hearing if such bank submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this paragraph.".

(e) AMENDMENT RELATING TO BANK HOLDING COMPANIES.—Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended by adding after the subsection added by section 905(i) of this Act the following new subsection:

"(d) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any company which—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board pursuant to this Act, within the period of time specified by the Board; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The company shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any company which—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board pursuant to this Act, within the period of time specified by the Board; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board may, in its discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such company, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board in the manner provided in subsection (b) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING.—Any company against which any penalty is assessed under this subsection shall be afforded an agency hearing if such company submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

(f) Amendment Relating to Credit Unions.—Section 202(a)(3) of the Federal Credit Union Act (12 U.S.C. 1782(a)(3)) is amended by striking out the 2nd sentence and inserting in lieu thereof the following new sentences: "Any insured credit union which maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit or publish any report required under this subsection or section 106, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, or inadvertently transmits or publishes any report which is minimally late, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late. Any insured credit union which fails to submit or publish any report required under this subsection or section 106, within the period of time specified by the Board, or submits or publishes any false or misleading report or information, in a manner not described in the 2nd preceding sentence shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected. Notwithstanding the preceding sentence, if any insured credit union knowingly or with reckless disregard for the accuracy of any information or report described in such sentence submits or publishes any false or misleading report or information, the Board may assess a penalty of not more than $1,000,000 or 1 percent of total assets of such credit union, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected. Any penalty imposed under any of the 4 preceding sentences shall be assessed and collected by the Board in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section. Any insured credit union against which any penalty is assessed under this subsection shall be afforded an agency hearing if such insured credit union submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 206(j) shall apply to any proceeding under this subsection.".

12 USC 161 note. (i) Effective Date.—The amendments made by this section shall apply with respect to reports filed or required to be filed after the date of the enactment of this Act.

SEC. 912. AUTHORITY OF THE FDIC TO TAKE ENFORCEMENT ACTION AGAINST SAVINGS ASSOCIATIONS.

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(t) Authority of Board To Take Enforcement Action Against Savings Associations.—

"(1) Authority to recommend that director of office of thrift supervision take enforcement action.—The Corporation, based on an examination of a savings association by the Corporation or by the Director of the Office of Thrift Supervision or on other information, may recommend that the Director take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any savings association.

"(2) AUTHORITY OF BOARD TO ORDER CORPORATION TO TAKE ENFORCEMENT ACTION IF DIRECTOR OF OFFICE OF THRIFT SUPERVISION FAILS TO FOLLOW RECOMMENDATION.—If the Director fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Corporation as set forth in its recommendation before the close of the 60-day period beginning on the date of the receipt of the formal recommendation from the Corporation, the Board of Directors may order the Corporation to take such action if the Board determines that—

"(A) the association is in an unsafe or unsound condition; or

"(B) failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the savings association.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may order the Corporation to exercise its authority, without regard to the time period set forth, in exigent circumstances after notifying the Director.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the Director, set forth those exigent circumstances in which the Corporation may act without regard to the time period set forth above.

"(4) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—The regional offices of the Office of Thrift Supervision shall concurrently submit all requests for formal investigations or enforcement actions to both the Director and the Corporation.

"(B) DIRECTOR REQUIRED TO REPORT ON REQUESTS.—The Director shall report semiannually to the Corporation the status or disposition of all such requests, including the reasons for the Director's decision to either approve or deny all such requests.

"(5) NONDELEGATION.—Any decisions by the Board of Directors to order actions described in this subsection shall not be delegated.".

SEC. 913. PUBLIC DISCLOSURE OF ENFORCEMENT ACTIONS REQUIRED.

(a) ORDERS ISSUED BY APPROPRIATE FEDERAL BANKING AGENCIES.—Section 8 of the Federal Deposit Insurance Act is amended by adding after the subsection added by section 912 of this Act the following new subsection:

"(u) PUBLIC DISCLOSURE OF FINAL ORDERS.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public—

"(A) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other provision of law; and

"(B) any modification to or termination of any final order described in subparagraph (A) of this paragraph.

"(2) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of any final order pursuant to paragraph (1) would seriously threaten the safety or soundness of an insured depository institution, such agency may delay the publication of such order for a reasonable time.".

(b) ORDERS ISSUED BY NCUA.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after the subsection added by section 901(b) of this Act the following new subsection:

"(s) PUBLIC DISCLOSURE OF FINAL ORDERS.—

"(1) IN GENERAL.—The Board shall publish and make available to the public—

"(A) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other provision of law; and

"(B) any modification to or termination of any final order described in subparagraph (A).

"(2) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of any final order pursuant to paragraph (1) would seriously threaten the safety or soundness of an insured credit union or other federally regulated depository institution, the Board may delay the publication of such order for a reasonable time.".

SEC. 914. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS OF CERTAIN DEPOSITORY INSTITUTIONS.

(a) DEPOSITORY INSTITUTION INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 226 of this Act the following new section:

12 USC 1831i.

"SEC. 32. AGENCY DISAPPROVAL OF DIRECTORS AND SENIOR EXECUTIVE OFFICERS OF INSURED DEPOSITORY INSTITUTIONS OR DEPOSITORY INSTITUTION HOLDING COMPANIES.

"(a) PRIOR NOTICE REQUIRED.—An insured depository institution or depository institution holding company shall notify the appropriate Federal banking agency of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution or holding company at least 30 days before such addition or employment becomes effective, if the insured depository institution or depository institution holding company—

"(1) has been chartered less than 2 years in the case of an insured depository institution;

"(2) has undergone a change in control within the preceding 2 years; or

"(3) is not in compliance with the minimum capital requirement applicable to such institution or is otherwise in a troubled condition, as determined by such agency on the basis of such institution's or holding company's most recent report of condition or report of examination or inspection.

"(b) DISAPPROVAL BY AGENCY.—An insured depository institution or depository institution holding company may not add any individual to the board of directors or employ any individual as a senior executive officer if the appropriate Federal banking agency issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

"(c) EXCEPTION IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—Each appropriate Federal banking agency may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

"(2) NO EFFECT ON DISAPPROVAL AUTHORITY OF AGENCY.—Such waivers shall not affect the authority of each agency to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

"(d) ADDITIONAL INFORMATION.—Any notice submitted to an appropriate Federal banking agency with respect to an individual by any insured depository institution or depository institution holding company pursuant to subsection (a) shall include—

"(1) the information described in section 7(j)(6)(A) about the individual; and

"(2) such other information as the agency may prescribe by regulation.

"(e) STANDARD FOR DISAPPROVAL.—The appropriate Federal banking agency shall issue a notice of disapproval with respect to a notice submitted pursuant to subsection (a) if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the depository institution or in the best interests of the public to permit the individual to be employed by, or associated with, the depository institution or depository institution holding company.

"(f) DEFINITION REGULATIONS.—Each appropriate Federal banking agency shall prescribe by regulation a definition for the terms 'troubled condition' and 'senior executive officer' for purposes of subsection (a).".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Title II of the Federal Credit Union Insurance Act (12 U.S.C. 1781 et seq.) is amended by adding at the end thereof the following new section:

12 USC 1790a.

"SEC. 212. BOARD DISAPPROVAL OF DIRECTORS, COMMITTEE MEMBERS, AND SENIOR EXECUTIVE OFFICERS OF INSURED CREDIT UNIONS.

"(a) PRIOR NOTICE REQUIRED.—An insured credit union shall notify the Board of the proposed addition of any individual to the board of directors or committee or the employment of any individual as a senior executive officer of such credit union at least 30 days before such addition or employment becomes effective, if the insured credit union—

"(1) has been chartered less than 2 years; or

"(2) is in troubled condition, as determined on the basis of such credit union's most recent report of condition or report of examination.

"(b) DISAPPROVAL BY THE BOARD.—An insured credit union may not add any individual to the board of directors or employ any individual as a senior executive officer if the Board issues a notice of disapproval of such addition or employment before the end of the 30-day period beginning on the date the agency receives notice of the proposed action pursuant to subsection (a).

"(c) EXCEPTION IN EXTRAORDINARY CIRCUMSTANCES.—

"(1) IN GENERAL.—The Board may prescribe by regulation conditions under which the prior notice requirement of subsection (a) may be waived in the event of extraordinary circumstances.

"(2) No effect on disapproval authority of board.—Such waivers shall not affect the authority of the Board to issue notices of disapproval of such additions or employment of such individuals within 30 days after each such waiver.

"(d) Additional Information.—Any notice submitted to the Board by any insured credit union pursuant to subsection (a) shall include—

"(1) the information described in section 7(j)(6)(A) of the Federal Deposit Insurance Act about the individual; and

"(2) such other information as the Board may prescribe by regulation.

"(e) Standard for Disapproval.—The Board shall issue a notice of disapproval with respect to a notice submitted pursuant to subsection (a) if the competence, experience, character, or integrity of the individual with respect to whom such notice is submitted indicates that it would not be in the best interests of the depositors of the insured credit union or in the best interests of the public to permit the individual to be employed by, or associated with, such insured credit union.

"(f) Definition Regulations.—The Board shall prescribe by regulation a definition for the terms 'troubled condition' and 'senior executive officer' for purposes of subsection (a).".

SEC. 915. CLARIFICATION OF NCUA'S AUTHORITY TO CONDUCT COMPLIANCE INVESTIGATIONS.

(a) Examinations.—Section 204(b) of the Federal Credit Union Act (12 U.S.C. 1784(b)) is amended—

(1) by inserting after "insured credit unions," the following: "or with other types of investigations to determine compliance with applicable law and regulations,"; and

(2) by inserting after "subpena duces tecum" the following: "and to exercise such others powers as are set forth in section 206(p)".

(b) Enforcement.—Section 206(p) of the Federal Credit Union Act (12 U.S.C. 1786(p)) is amended in the 1st sentence—

(1) by inserting after "any proceeding under this section" the following: "or in connection with any claim for insured deposits or any examination or investigation under section 204(b)";

(2) by inserting after "the Board" the 1st place such term appears the following: ", in conducting the proceeding, examination, or investigation or considering the claim for insured deposits,"; and

(3) by inserting ", claims, examinations, or investigations" before the period.

(c) Payment of Claims.—Section 207(c)(1) of the Federal Credit Union Act (12 U.S.C. 1787(c)(1)) is amended in the last sentence by inserting after "before paying the insured accounts," the following: "may investigate said claims under section 206(p),".

6

12 USC 1818 note.

SEC. 916. IMPROVED ADMINISTRATIVE HEARINGS AND PROCEDURES.

Before the close of the 24-month period beginning on the date of the enactment of this Act, the appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) and the National Credit Union Administration Board shall jointly—

(1) establish their own pool of administrative law judges, and

(2) develop a set of uniform rules and procedures for administrative hearings, including provisions for summary judgment

rulings where there are no disputes as to material facts of the case.

SEC. 917. TASK FORCE STUDY OF DELEGATION OF ENFORCEMENT ACTIONS.

12 USC 1818 note.

(a) Creation of Task Force.—The appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) and the National Credit Union Administration Board shall create a joint task force to study the desirability and feasibility of delegating investigation and enforcement authority to their regional or district offices or banks.

(b) Composition of Task Force.—The composition of the task force shall be reasonably balanced between officials from headquarters and officials from the regions, districts, or district banks.

(c) Report.—Not later than September 30, 1990, the task force shall report to the Congress the findings and recommendations of the Task Force, together with the responses of the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the National Credit Union Administration.

SEC. 918. ANNUAL REPORT TO CONGRESS.

12 USC 1833.

(a) In General.—Each agency described in subsection (b) shall submit an annual report to the Congress which shall contain the following information with respect to the 12-month period for which such report is made:

(1) The number of formal and informal supervisory, administrative, and civil enforcement actions initiated by such agency during such 12-month period, and the number of such actions completed by such agency during such 12-month period, including actions initiated or taken with respect to memoranda of understanding, written agreements, cease and desist orders (including temporary orders), suspension orders, removal or prohibition orders, and civil money penalty assessments.

(2) The number of individuals and institutions against whom civil money penalties were assessed by such agency during such 12-month period, the amount of each such penalty, the total amount of all such penalties, and data on uncollected penalties for such period and prior years.

(3) A description of all other enforcement efforts and initiatives relating to unsafe and unsound practices, criminal misconduct, and insider abuse which were undertaken by such agency during such 12-month period.

(4) The number of criminal referrals made to the Department of Justice.

(5) With respect to the criminal referrals received by the Department of Justice and with respect to investigations of similar matters initiated without such a referral, the number and status of grand jury investigations and investigations being conducted by the Federal Bureau of Investigation, and the number and disposition of prosecutions and civil actions commenced by the Attorney General.

(6) Recommendations concerning the need for additional legislation or financial resources.

(b) Agencies Required to Submit Reports.—The agencies referred to in subsection (a) are as follows:

(1) The Comptroller of the Currency.
(2) The Board of Governors of the Federal Reserve System.
(3) The Federal Deposit Insurance Corporation.
(4) The Federal Housing Finance Board.
(5) The Office of Thrift Supervision.
(6) The National Credit Union Administration.
(7) The Attorney General of the United States.

SEC. 919. CREDIT UNION AUDIT REQUIREMENTS.

Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end thereof the following new paragraph:

"(6) AUDIT REQUIREMENT.—

Regulations.

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and notwithstanding any other provision of Federal or State law, the Board shall prescribe, by regulation, audit standards which require an outside, independent audit of any insured credit union by a certified public accountant for any fiscal year (of such credit union)—

"(i) for which such credit union has not conducted an annual supervisory committee audit;

"(ii) for which such credit union has not received a complete and satisfactory supervisory committee audit; or

"(iii) during which such credit union has experienced persistent and serious recordkeeping deficiencies, as determined by the Board.

"(B) UNSAFE OR UNSOUND PRACTICE.—The Board may treat the failure of any insured credit union to obtain an outside, independent audit for any fiscal year for which such audit is required under subparagraph (A) as an unsafe or unsound practice within the meaning of section 206(b).".

SEC. 920. TECHNICAL AMENDMENTS RELATING TO ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) FDIA.—Section 8(h)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(2)) is amended by striking "Any party" and all that follows through "therein," and inserting in lieu thereof "Any party to any proceeding under paragraph (1)".

(b) FCUA.—Section 206(j)(2) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)) is amended by striking "Any party" and all that follows through "therein," and inserting in lieu thereof "Any party to any proceeding under paragraph (1)".

(c) MISCELLANEOUS CONFORMING AMENDMENT.—Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out all that follows "(k)".

Subtitle B—Termination of Deposit Insurance

SEC. 926. REVISION OF PROCEDURES FOR TERMINATION OF FDIC DEPOSIT INSURANCE.

Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(1) by striking out "(a) Any insured bank" and all that follows through the period at the end of the 4th sentence and inserting in lieu thereof the following:

"(a) TERMINATION OF INSURANCE.—

"(1) VOLUNTARY TERMINATION.—Any insured depository institution which is not—

"(A) a national member bank;

"(B) a State member bank;

"(C) a Federal branch;

"(D) a Federal savings association; or

"(E) an insured branch which is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978,

may terminate such depository institution's status as an insured depository institution if such insured institution provides written notice to the Corporation of the institution's intent to terminate such status not less than 90 days before the effective date of such termination.

"(2) INVOLUNTARY TERMINATION.—

"(A) NOTICE TO PRIMARY REGULATOR.—If the Board of Directors determines that—

"(i) an insured depository institution or the directors or trustees of an insured depository institution have engaged or are engaging in unsafe or unsound practices in conducting the business of the depository institution;

"(ii) an insured depository institution is in an unsafe or unsound condition to continue operations as an insured institution; or

"(iii) an insured depository institution or the directors or trustees of the insured institution have violated any applicable law, regulation, order, condition imposed in writing by the Corporation in connection with the approval of any application or other request by the insured depository institution, or written agreement entered into between the insured depository institution and the Corporation,

the Board of Directors shall notify the appropriate Federal banking agency with respect to such institution (if other than the Corporation) or the State banking supervisor of such institution (if the Corporation is the appropriate Federal banking agency) of the Board's determination and the facts and circumstances on which such determination is based for the purpose of securing the correction of such practice, condition, or violation. Such notice shall be given to the appropriate Federal banking agency not less than 30 days before the notice required by subparagraph (B), except that this period for notice to the appropriate Federal banking agency may be reduced or eliminated with the agreement of such agency.

"(B) NOTICE OF INTENTION TO TERMINATE INSURANCE.—If, after giving the notice required under subparagraph (A) with respect to an insured depository institution, the Board of Directors determines that any unsafe or unsound practice or condition or any violation specified in such notice requires the termination of the insured status of the insured depository institution, the Board shall—

"(i) serve written notice to the insured depository institution of the Board's intention to terminate the insured status of the institution;

"(ii) provide the insured depository institution with a statement of the charges on the basis of which the determination to terminate such institution's insured status was made (or a copy of the notice under subparagraph (A)); and

"(iii) notify the insured depository institution of the date (not less than 30 days after notice under this subparagraph) and place for a hearing before the Board of Directors (or any person designated by the Board) with respect to the termination of the institution's insured status.

"(3) HEARING; TERMINATION.—If, on the basis of the evidence presented at a hearing before the Board of Directors (or any person designated by the Board for such purpose), in which all issues shall be determined on the record pursuant to section 554 of title 5, United States Code, and the written findings of the Board of Directors (or such person) with respect to such evidence (which shall be conclusive), the Board of Directors finds that any unsafe or unsound practice or condition or any violation specified in the notice to an insured depository institution under subparagraph (B) has been established, the Board of Directors may issue an order terminating the insured status of such depository institution effective as of a date subsequent to such finding.";

(2) by striking out "Unless the" and inserting in lieu thereof the following:

"(4) APPEARANCE; CONSENT TO TERMINATION.—Unless the";

(3) by striking out "Any insured" and all that follows through "status" the 1st place such term appears and inserting in lieu thereof the following:

"(5) JUDICIAL REVIEW.—Any insured depository institution whose insured status";

(4) by striking out "The Corporation may publish" and inserting in lieu thereof the following:

"(6) PUBLICATION OF NOTICE OF TERMINATION.—The Corporation may publish";

(5) by striking out "After the termination of the insured status" and inserting in lieu thereof the following:

"(7) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—After the termination of the insured status";

(6) in paragraph (7) (as so designated by the amendment made by paragraph (5) of this section)—

(A) by striking out "of two years" the 1st place such term appears and inserting in lieu thereof "of at least 6 months or up to 2 years, within the discretion of the Board of Directors";

(B) by striking out "of two years" the 2nd place such term appears and inserting in lieu thereof "the period referred to in the 1st sentence"; and

(C) by striking out "of two years" the 3rd place such term appears;

(7) by adding at the end the following new paragraphs:

"(8) TEMPORARY SUSPENSION OF INSURANCE.—

"(A) In general.—If the Board of Directors initiates a termination proceeding under paragraph (2), and the Board of Directors, after consultation with the appropriate Federal banking agency, finds that an insured depository institution (other than a savings association to which subparagraph (B) applies) has no tangible capital under the capital guidelines or regulations of the appropriate Federal banking agency, the Corporation may issue a temporary order suspending deposit insurance on all deposits received by the institution.

"(B) Special rule for certain savings institutions.—

"(i) Certain goodwill included in tangible capital.—In determining the tangible capital of a savings association for purposes of this paragraph, the Board of Directors shall include goodwill to the extent it is considered a component of capital under section 5(t) of the Home Owners' Loan Act. Any savings association which would be subject to a suspension order under subparagraph (A) but for the operation of this subparagraph, shall be considered by the Corporation to be a 'special supervisory association'.

"(ii) Suspension order.—The Corporation may issue a temporary order suspending deposit insurance on all deposits received by a special supervisory association whenever the Board of Directors determines that—

"(I) the capital of such association, as computed utilizing applicable accounting standards, has suffered a material decline;

"(II) that such association (or its directors or officers) is engaging in an unsafe or unsound practice in conducting the business of the association;

"(III) that such association is in an unsafe or unsound condition to continue operating as an insured association; or

"(IV) that such association (or its directors or officers) has violated any applicable law, rule, regulation, or order, or any condition imposed in writing by a Federal banking agency, or any written agreement including a capital improvement plan entered into with any Federal banking agency, or that the association has failed to enter into a capital improvement plan which is acceptable to the Corporation within the time period set forth in section 5(t) of the Home Owners' Loan Act.

Nothing in this paragraph limits the right of the Corporation or the Director of the Office of Thrift Supervision to enforce a contractual provision which authorizes the Corporation or the Director of the Office of Thrift Supervision, as a successor to the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board, to require a savings association to write down or amortize goodwill at a faster rate than otherwise required under this Act or under applicable accounting standards.

"(C) Effective period of temporary order.—Any order issued under subparagraph (A) shall become effective not earlier than 10 days from the date of service upon the institution and, unless set aside, limited, or suspended by a court in proceedings authorized hereunder, such temporary order shall remain effective and enforceable until an order of the Board under paragraph (3) becomes final or until the Corporation dismisses the proceedings under paragraph (3).

"(D) JUDICIAL REVIEW.—Before the close of the 10-day period beginning on the date any temporary order has been served upon an insured depository institution under subparagraph (A), such institution may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the home office of the institution is located, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order, and such court shall have jurisdiction to issue such injunction.

"(E) CONTINUATION OF INSURANCE FOR PRIOR DEPOSITS.—The insured deposits of each depositor in such depository institution on the effective date of the order issued under this paragraph, minus all subsequent withdrawals from any deposits of such depositor, shall continue to be insured, subject to the administrative proceedings as provided in this Act.

"(F) PUBLICATION OF ORDER.—The depository institution shall give notice of such order to each of its depositors in such manner and at such times as the Board of Directors may find to be necessary and may order for the protection of depositors.

"(G) NOTICE BY CORPORATION.—If the Corporation determines that the depository institution has not substantially complied with the notice to depositors required by the Board of Directors, the Corporation may provide such notice in such manner as the Board of Directors may find to be necessary and appropriate.

"(H) LACK OF NOTICE.—Notwithstanding subparagraph (A), any deposit made after the effective date of a suspension order issued under this paragraph shall remain insured to the extent that the depositor establishes that—

(i) such deposit consists of additions made by automatic deposit the depositor was unable to prevent; or

(ii) such depositor did not have actual knowledge of the suspension of insurance.

"(9) FINAL DECISIONS TO TERMINATE INSURANCE.—Any decision by the Board of Directors to—

"(A) issue a temporary order terminating deposit insurance; or

"(B) issue a final order terminating deposit insurance (other than under subsection (p) or (q));

shall be made by the Board of Directors and may not be delegated.

"(10) LOW- TO MODERATE-INCOME HOUSING LENDER.—In making any determination regarding the termination of insurance of a solvent savings association, the Corporation may consider the extent of the association's low- to moderate-income housing loans.".

Subtitle C—Improving Early Detection of Misconduct and Encouraging Informants

SEC. 931. INFORMATION REQUIRED TO BE MADE AVAILABLE TO OUTSIDE AUDITORS.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end thereof the following new paragraph:

"(8) REPORT TO INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such depository institution within the past 2 years shall transmit to such auditor a copy of the the most recent report of condition made by such depository institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by such depository institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided to an auditor under subparagraph (A), each insured depository institution shall provide such auditor with—

"(i) a copy of any supervisory memorandum of understanding with such depository institution and any written agreement between a Federal or State banking agency and the depository institution which is in effect during the period covered by the audit; and

"(ii) a report of any action initiated or taken by a Federal banking agency during such period under subsection (a), (b), (c), (e), (g), (i), or (s) of section 8, or of any similar action taken by a State banking agency under State law, or any other civil money penalty assessed under any other provision of law with respect to—

"(I) the depository institution; or

"(II) any institution-affiliated party.".

(b) INSTITUTIONS INSURED BY THE NCUA.—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding after the paragraph added by section 922 of this Act the following new paragraph:

"(7) REPORT TO INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured credit union which has engaged the services of an independent auditor to audit such depository institution within the past 2 years shall transmit to such auditor a copy of the most recent report of condition made by such credit union (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by such credit union.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided to an auditor under subparagraph (A), each insured credit union shall provide such auditor with—

"(i) a copy of any supervisory memorandum of understanding with such credit union and any written agreement between the Board or a State regulatory agency and the credit union which is in effect during the period covered by the audit; and

"(ii) a report of any action initiated or taken by the Board during such period under subsection (e), (f), (g), (i), (l), or (q) of section 206, or any similar action taken by a State regulatory agency under State law, or any other civil money penalty assessed by the Board under this Act, with respect to—

"(I) the credit union; or

"(II) any institution-affiliated party.".

SEC. 932. DEPOSITORY INSTITUTION EMPLOYEE PROTECTION REMEDY.

(a) EMPLOYEES OF DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 914(a) of this Act the following new section:

12 USC 1831j.

"SEC. 33. DEPOSITORY INSTITUTION EMPLOYEE PROTECTION REMEDY.

"(a) PROHIBITION AGAINST DISCRIMINATION AGAINST WHISTLEBLOWERS.—No federally insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding a possible violation of any law or regulation by the depository institution or any of its officers, directors, or employees.

"(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the appropriate Federal banking agency.

"(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the depository institution which committed the violation—

"(1) to reinstate the employee to his former position,

"(2) to pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.".

(b) EMPLOYEES OF CREDIT UNIONS INSURED BY THE NCUA.—The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by inserting after the section added by section 914(b) of this Act the following new section:

2 USC 1790b.

"SEC. 213. CREDIT UNION EMPLOYEE PROTECTION REMEDY.

"(a) PROHIBITION AGAINST DISCRIMINATION AGAINST WHISTLEBLOWERS.—No federally insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board or to the Attorney General regarding a possible violation of any law or regulation by the credit union or any of its officers, directors, or employees.

"(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the Board.

"(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the credit union which committed the violation—

"(1) to reinstate the employee to his former position,

"(2) to pay compensatory damages, or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATIONS.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation, or

"(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.".

SEC. 933. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after the section added by section 932(a) of this Act the following new section:

"SEC. 34. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

12 USC 1831k.

"(a) IN GENERAL.—An appropriate Federal banking agency, with the concurrence of the Attorney General, may pay a reward to a person who provides original information which leads to—

"(1) recovery, in an amount that exceeds $50,000, of a criminal fine, restitution, or civil penalty—

"(A) under—

"(i) the Federal Deposit Insurance Act;

"(ii) the Federal Credit Union Act;

"(iii) sections 5213, 5239(b), and 5240 of the Revised Statutes;

"(iv) the Federal Reserve Act;

"(v) the Bank Holding Company Act Amendments of 1970;

"(vi) the Bank Holding Company Act of 1956;

"(vii) the Home Owners' Loan Act; or

"(viii) section 3663 of title 18, United States Code, pursuant to a conviction for an offense referred to in subparagraph (B) of this paragraph,

"(B) pursuant to a conviction for an offense under section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation, or for a conspiracy to commit such an offense; or

"(C) under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; or

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that—

"(A) arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation; and

"(B) exceeds $50,000.

"(b) PERCENTAGE LIMITATION.—An appropriate Federal banking agency may not pay a reward under subsection (a) of more than 25 percent of the amount of the fine, penalty, restitution, or forfeiture or $100,000, whichever is less.

"(c) OFFICIALS AND PERSONS INELIGIBLE.—An appropriate Federal banking agency may not pay a reward under subsection (a) to—

"(1) an officer or employee of the United States or of a State or local government who provides information described in subsection (a), obtained in the performance of official duties; or

"(2) a person who—

"(A) deliberately causes or participates in the alleged violation of law or regulation, or

"(B) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.

"(d) NONREVIEWABILITY.—Any agency decision under this section is final and not reviewable by any court.".

(b) CREDIT UNIONS INSURED BY THE NCUA.—Title II of the Federal Credit Union Act (12 U.S.C. 1790 et seq.) is amended by inserting after the section added by section 932(b) of this Act the following new section:

12 USC 1790c.

"SEC. 214. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

"The Board may pay rewards in connection with an offense affecting an insured credit union, under the same circumstances and subject to the same limitations that a Federal banking agency may pay rewards under section 33 of the Federal Deposit Insurance Act in connection with an offense affecting a depository institution insured by the Federal Deposit Insurance Corporation.".

Subtitle D—Right to Financial Privacy Act Amendments

SEC. 941. DEFINITIONS.

Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401), as amended by section 744(b) of this Act, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) in paragraph (7) (as so redesignated), by striking all that precedes subparagraph (A) and inserting in lieu thereof the following:

"(7) 'supervisory agency' means with respect to any particular financial institution, holding company, or any subsidiary of a financial institution or holding company, any of the following which has statutory authority to examine the financial condition, business operations, or records or transactions of that institution, holding company, or subsidiary—"; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) 'holding company' means—

"(A) any bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956);

"(B) any company described in section 3(f)(1) of the Bank Holding Company Act of 1956; and

"(C) any savings and loan holding company (as defined in the Home Owners' Loan Act);".

SEC. 942. ADDITIONAL EXCEPTIONS.

Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(b)) is amended—

(1) by amending subsection (b) to read as follows:

"(b) This chapter shall not apply to the examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions, including conservatorship or receivership functions, with respect to any financial institution, holding company, subsidiary of a financial institution or holding company, institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a financial institution, holding company, or subsidiary, or other person participating in the conduct of the affairs thereof."; and

(2) by adding at the end the following new subsections:

"(m) This title shall not apply to the examination by or disclosure to employees or agents of the Board of Governors of the Federal Reserve System or any Federal Reserve Bank of financial records or information in the exercise of the Federal Reserve System's authority to extend credit to the financial institutions or others.

"(n) This title shall not apply to the examination by or disclosure to the Resolution Trust Corporation or its employees or agents of financial records or information in the exercise of its conservatorship, receivership, or liquidation functions with respect to a financial institution.

"(o) This title shall not apply to the examination by or disclosure to the Federal Housing Finance Board or any of the Federal home loan banks of financial records or information in the exercise of the Federal Housing Finance Board's authority to extend credit (either directly or through a Federal home loan bank) to financial institutions or others.".

SEC. 943. PROHIBITION.

Section 1120 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420) is redesignated as section 1120(a) and is amended by adding at the end the following new subsection:

"(b)(1) No officer, director, partner, employee, or shareholder of, or agent or attorney for, a financial institution shall, directly or indirectly, notify any person named in a grand jury subpoena served on such institution in connection with an investigation relating to a possible—

"(A) crime against any financial institution or supervisory agency; or

"(B) conspiracy to commit such a crime,

about the existence or contents of such subpoena, or information that has been furnished to the grand jury in response to such subpoena.

"(2) Section 8 of the Federal Deposit Insurance Act and section 206(k)(2) of the Federal Credit Union Act shall apply to any violation of this subsection.".

SEC. 944. MISCELLANEOUS PROVISIONS.

Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(1) by inserting after "with respect to a depository institution" the following: ", holding company, or any subsidiary of a depository institution or holding company,"; and

(2) by striking out "Council" and inserting in lieu thereof "Council and the Securities and Exchange Commission".

Subtitle E—Civil Penalties For Violations Involving Financial Institutions

12 USC 1833a.

SEC. 951. CIVIL PENALTIES.

(a) In General.—Whoever violates any provision of law to which this section is made applicable by subsection (c) shall be subject to a civil penalty in an amount assessed by the court in a civil action under this section.

(b) Maximum Amount of Penalty.—

(1) Generally.—The amount of the civil penalty shall not exceed $1,000,000.

(2) Special rule for continuing violations.—In the case of a continuing violation, the amount of the civil penalty may exceed the amount described in paragraph (1) but may not exceed the lesser of $1,000,000 per day or $5,000,000.

(3) Special rule for violations creating gain or loss.—(A) If any person derives pecuniary gain from the violation, or if the violation results in pecuniary loss to a person other than the violator, the amount of the civil penalty may exceed the amounts described in paragraphs (1) and (2) but may not exceed the amount of such gain or loss.

(B) As used in this paragraph, the term "person" includes the Bank Insurance Fund, the Savings Association Insurance Fund, and the National Credit Union Share Insurance Fund.

(c) Violations to Which Penalty Is Applicable.—This section applies to a violation of, or a conspiracy to violate—

(1) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of title 18, United States Code; or

(2) section 1341 or 1343 of title 18, United States Code, affecting a federally insured financial institution.

(d) Attorney General to Bring Action.—A civil action to recover a civil penalty under this section shall be commenced by the Attorney General.

(e) Burden of Proof.—In a civil action to recover a civil penalty under this section, the Attorney General must establish the right to recovery by a preponderance of the evidence.

(f) Administrative Subpoenas.—

(1) In general.—For the purpose of conducting a civil investigation in contemplation of a civil proceeding under this section, the Attorney General may—

(A) administer oaths and affirmations;

(B) take evidence; and

(C) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

(2) PROCEDURES APPLICABLE.—The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this subsection. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

(3) LIMITATION.—In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under paragraph (2) not later than 5 days after the date of service.

Subtitle F—Criminal Law and Procedure

SEC. 961. INCREASED CRIMINAL PENALTIES FOR CERTAIN FINANCIAL INSTITUTION OFFENSES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(c) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(d) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended—

(1) in the 1st paragraph, by inserting "bank or savings and loan holding company," after "member bank,";

(2) in the 3rd paragraph—

(A) by inserting "or company" after "bank" each place it appears; and

(B) by striking the "—" at the end and inserting a semicolon;

(3) by adding after the 3rd paragraph the following:

Fraud.

"Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution—";

(4) by striking "$5,000" and inserting "$1,000,000"; and

(5) by striking "five" and inserting "20".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended—

(1) by striking "$10,000" and inserting "$1,000,000"; and

(2) by striking "five" and inserting "20".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended to read as follows:

"§ 1007. Federal Deposit Insurance Corporation Transactions

Fraud.

"Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(g) FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION TRANSACTIONS.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by striking section 1008.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1008.

(h) LOAN AND CREDIT APPLICATIONS GENERALLY; RENEWALS AND DISCOUNTS; CROP INSURANCE.—Section 1014 of title 18, United States Code, is amended—

(1) by striking "a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, a Federal Saving and Loan Association";

(2) by striking "the Federal Saving and Loan Insurance Corporation, any bank the deposits of which are insured by";

(3) by striking "any member of";

(4) by inserting "the Resolution Trust Corporation" after "Federal Deposit Insurance Corporation,";

(5) by striking "$5,000" and inserting "$1,000,000"; and

(6) by striking "two" and inserting "20".

(i) FRAUDS AND SWINDLES.—Section 1341 of title 18, United States Code, is amended by adding at the end: "If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(j) FRAUD BY WIRE, RADIO, OR TELEVISION.—Section 1343 of title 18, United States Code, is amended by adding at the end: "If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(k) BANK FRAUD.—Section 1344 of title 18, United States Code, is amended to read as follows:

"§ 1344. Bank fraud

"Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud a financial institution; or

"(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be fined not more than $1,000,000 or imprisoned not more than 20 years, or both.".

(l) LIMITATIONS.—

(1) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3293. Financial institution offenses

"No person shall be prosecuted, tried, or punished for a violation of, or a conspiracy to violate—

"(1) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, or 1344; or

"(2) section 1341 or 1343, if the offense affects a financial institution;

unless the indictment is returned or the information is filed within 10 years after the commission of the offense.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

"3293. Financial institution offenses.".

(3) EFFECT OF AMENDMENTS ON OFFENSES FOR WHICH THE CURRENT PERIOD OF LIMITATIONS HAD NOT RUN.—The amendments made by this subsection shall apply to an offense committed before the effective date of this section, if the statute of limitations applicable to that offense under this chapter had not run as of such date. 18 USC 3293 note.

(m) SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide for a substantial period of incarceration for a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, that substantially jeopardizes the safety and soundness of a federally insured financial institution. 28 USC 994 note.

SEC. 962. MISCELLANEOUS REVISIONS TO TITLE 18.

(a) SPECIFIC TERMINOLOGY CHANGES AND REPEAL.—

(1) SECTION 212.—Section 212 of title 18, United States Code, is amended—

(A) by striking "bank" the first place it appears and inserting "financial institution" in lieu thereof;

(B) by striking "land bank" and all that follows through "farm credit examiner" and inserting "Farm Credit Bank, bank for cooperatives, production credit association, Federal land bank association, agricultural credit association, Federal land credit association, service organization chartered under section 4.26 of the Farm Credit Act of 1971, the Farm Credit System Financial Assistance Corporation, the Federal Agricultural Mortgage Credit Corporation, the Federal Farm Credit Banks Funding Corporation, the National Consumer Cooperative Bank, or other institution subject to examination by a Farm Credit Administration examiner";

(C) in the 2nd undesignated paragraph, by striking "insured banks" and inserting "insured financial institutions" in lieu thereof; and

(D) in the 2nd undesignated paragraph, by striking "or by the Federal Deposit Insurance Corporation" and inserting in lieu thereof ", by the Federal Deposit Insurance Corporation, by the Office of Thrift Supervision, or by the Federal Housing Finance Board".

(2) SECTION 213.—Section 213 of title 18, United States Code, is amended by striking "banks the deposits of which" and inserting "financial institutions the deposits of which".

(3) REPEAL OF SECTION 1009.—Title 18, United States Code, is amended by striking out section 1009.

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking out the item relating to section 1009.

(5) SECTION 1030(e)(4).—Section 1030(e)(4) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking "a bank" and inserting "an institution,";

(B) by striking subparagraph (C); and

(C) by redesignating subparagraphs (D), (E), (F), (G), and (H), as subparagraphs (C), (D), (E), (F), and (G), respectively.

(6) SECTION 1114.—Section 1114 of title 18, United States Code, is amended—

(A) by striking "the Federal Savings and Loan Insurance Corporation,"; and

(B) by striking "the Federal Home Loan Bank Board" and inserting "the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation".

(7) CHANGES RELATING TO NATIONAL CREDIT UNION ADMINISTRATION.—Sections 657, 1006, 1014, and 2113(h) of title 18, United States Code, are each amended by striking "Administrator of the National Credit Union Administration" and inserting "National Credit Union Administration Board".

(8) CHANGES RELATING TO THE FARM CREDIT SYSTEM.—

(A) Sections 657 and 1006 of title 18, United States Code, are each amended by striking "any land bank, intermediate credit bank," and inserting in lieu thereof "the Farm Credit System Insurance Corporation, a Farm Credit Bank, a".

(B) Section 1014 of title 18, United States Code, is amended—

(i) by striking "any Federal intermediate credit bank" and all that follows through "Title 12" and inserting in lieu thereof "any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof"; and

(ii) by striking "Federal Savings and Loan Insurance Corporation" and inserting "Farm Credit System Insurance Corporation" in lieu thereof.

(b) CROSS REFERENCE CHANGE.—Section 1306 of title 18, United States Code, is amended by striking "section 20 of the Federal Deposit Insurance Act, or section 410 of the National Housing Act" and inserting "or section 20 of the Federal Deposit Insurance Act".

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b)(1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, directly or indirectly notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than 5 years, or both.

"(2) Whoever, being an officer of a financial institution, directly or indirectly notifies—

"(A) a customer of that financial institution whose records are sought by a grand jury subpoena; or

"(B) any other person named in that subpoena;

about the existence or contents of that subpoena or information that has been furnished to the grand jury in response to that subpoena, shall be fined under this title or imprisoned not more than one year, or both.

"(3) As used in this subsection—

"(A) the term 'an officer of a financial institution' means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

"(B) the term 'subpoena for records' means a Federal grand jury subpoena for customer records that has been served relating to a violation of, or a conspiracy to violate—

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(ii) section 1341 or 1343 affecting a financial institution.".

(d) CONFORMING TERMINOLOGY IN BANK ROBBERY SECTION.—Section 2113 of title 18, United States Code, is amended—

(1) in subsection (f), by striking "any bank the deposits of which" and inserting "any institution the deposits of which";

(2) by adding before the period at the end of subsection (h) ", and any 'Federal credit union' as defined in section 2 of the Federal Credit Union Act"; and

(3) by striking subsection (g) and redesignating subsection (h) as subsection (g).

(e) CREATION OF GENERAL DEFINITION OF FINANCIAL INSTITUTION FOR TITLE 18.—

(1) IN GENERAL.—Subsection (b) of section 215 of title 18, United States Code, is transferred to the end of chapter 1 of such title.

(2) UPDATING AND TECHNICAL AMENDMENTS.—Such subsection (b), as so transferred, is amended—

(A) by inserting at the beginning the following section heading:

"§ 20. Financial institution defined"

(B) by striking "(b)";

(C) by striking "this section" and inserting "this title";

(D) so that paragraph (1) reads as follows:

"(1) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);";

(E) by striking paragraphs (2) and (8);

(F) so that paragraph (5) reads as follows:

"(5) a System institution of the Farm Credit System, as defined in section 5.35(3) of the Farm Credit Act of 1971;";

(G) so that paragraph (7) reads as follows:

"(7) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act.";

and

(H) by redesignating paragraphs (3), (4), (5), (6), and (7) (as amended by this paragraph) as paragraphs (2), (3), (4), (5), and (6), respectively.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by adding at the end the following new item:

"20. Financial institution defined.".

SEC. 963. CIVIL AND CRIMINAL FORFEITURE.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

Real property. "(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title.".

(b) TRANSFER OF PROPERTY UNDER CIVIL FORFEITURE.—Section 981(e) of title 18, United States Code, is amended—

(1) in the matter before paragraph (1), by striking out "determine to—" and inserting in lieu thereof "determine—";

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) to any other Federal agency;

"(2) to any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property;

"(3) in the case of property referred to in subsection (a)(1)(C) (if the affected financial institution is in receivership or liquidation), to any Federal financial institution regulatory agency—

"(A) to reimburse the agency for payments to claimants or creditors of the institution; and

"(B) to reimburse the insurance fund of the agency for losses suffered by the fund as a result of the receivership or liquidation;

"(4) in the case of property referred to in subsection (a)(1)(C) (if the affected financial institution is not in receivership or liquidation), upon the order of the appropriate Federal financial institution regulatory agency, to the financial institution as restitution, with the value of the property so transferred to be set off against any amount later recovered by the financial institution as compensatory damages in any State or Federal proceeding; or

"(5) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency, to the extent of the agency's contribution of resources to, or expenses involved in, the seizure and forfeiture, and the investigation leading directly to the seizure and forfeiture, of such property."; and

(3) by adding at the end the following new sentence: "The United States shall not be liable in any action arising out of a transfer under paragraph (3), (4), or (5) of this subsection.".

(c) CRIMINAL FORFEITURE.—Section 982 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following:

"(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation."; and

(2) in subsection (b), by striking "(b) The provisions" and all that follows through "However, the" and inserting in lieu thereof the following:

"(b)(1) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed—

"(A) in the case of a forfeiture under subsection (a)(1) of this section, by subsections (c) and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853); and

"(B) in the case of a forfeiture under subsection (a)(2) of this section, by subsections (b), (c), (e), and (g) through (p) of section 413 of such Act.

"(2) The".

SEC. 964. GRAND JURY SECRECY.

(a) In General.—Chapter 215 of title 18, United States Code, is amended by striking section 3322 and all that follows through section 3328 and inserting the following:

"§ 3322. Disclosure of certain matters occurring before grand jury

"(a) A person who is privy to grand jury information concerning a banking law violation—

"(1) received in the course of duty as an attorney for the government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the government for use in enforcing section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 or for use in connection with civil forfeiture under section 981 of title 18, United States Code, of property described in section 981(a)(1)(C) of such title.

"(b)(1) Upon motion of an attorney for the government, a court may direct disclosure of matters occurring before a grand jury during an investigation of a banking law violation to identified personnel of a financial institution regulatory agency—

"(A) for use in relation to any matter within the jurisdiction of such regulatory agency; or

"(B) to assist an attorney for the government to whom matters have been disclosed under subsection (a).

"(2) A court may issue an order under paragraph (1) upon a finding of a substantial need.

"(c) A person to whom matter has been disclosed under this section shall not use such matter other than for the purpose for which such disclosure was authorized.

"(d) As used in this section—

"(1) the term 'banking law violation' means a violation of, or a conspiracy to violate—

"(A) section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344; or

"(B) section 1341 or 1343 affecting a financial institution;

"(2) the term 'attorney for the government' has the meaning given such term in the Federal Rules of Criminal Procedure; and

"(3) the term 'grand jury information' means matters occurring before a grand jury other than the deliberations of the grand jury or the vote of any grand juror.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 215 of title 18, United States Code, is amended by striking out the item relating to sections 3322 through 3328 and inserting the following:

"3322. Disclosure of certain matters occurring before grand jury.".

(c) FAIR CREDIT REPORTING ACT AMENDMENT.—Paragraph (1) of section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by inserting before the period at the end the following: ", or a subpoena issued in connection with proceedings before a Federal grand jury".

SEC. 965. CRIMINAL DIVISION FRAUD SECTION REGIONAL OFFICE.

Texas.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Department of Justice shall create a regional office of the Fraud Section of the Criminal Division in the Northern District of Texas, and maintain such office, by providing sufficient legal and other staff and office space, through fiscal year 1992.

Reports.

(b) STUDY.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall study and report to the Congress on whether additional regional offices of the Fraud Section of the Criminal Division should be established in other parts of the country.

SEC. 966. DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION.

(a) IN GENERAL.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation—

(1) $65,000,000 for each of fiscal years 1990 through 1992, for purposes of investigations and prosecutions involving financial institutions to which this Act and amendments made by this Act apply; and

(2) $10,000,000 for each of fiscal years 1990 through 1992, for purposes of civil proceedings involving financial institutions to which this Act and amendments made by this Act apply.

(b) SUPPLANTATION AND REALLOCATION PROHIBITED.—Sums authorized by this section—

(1) are in addition to any other sums authorized to be appropriated for such purposes;

(2) shall not be used to supplant sums otherwise available for such purposes; and

(3) shall not be reallocated for any other purpose.

SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE JUDICIARY.

There is authorized to be appropriated to the Federal courts system $10,000,000, to carry out such system's duties under this Act, for each of fiscal years 1990 through 1992.

SEC. 968. RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS.

Section 1961(1) of title 18, United States Code, is amended by inserting "section 1344 (relating to financial institution fraud)," after "(relating to wire fraud),".

TITLE X—STUDIES OF FEDERAL DEPOSIT INSURANCE, BANKING SERVICES, AND THE SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES

12 USC 1811 note.

SEC. 1001. STUDY OF FEDERAL DEPOSIT INSURANCE SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the National Credit Union Administration Board, the Director of the Office of Management and Budget, and individuals from the private sector, shall conduct a study of the Federal deposit insurance system.

(b) TOPICS.—As part of the study required under subsection (a), the Secretary of the Treasury shall investigate, review, and evaluate the following:

(1) The feasibility of establishing a deposit insurance premium rate structure which would take into account, on an institution-by-institution basis—

(A) asset quality risk;

(B) interest rate risk;

(C) quality of management; and

(D) profitability and capital.

(2) Incentives for market discipline, including the advantages of—

(A) limiting each depositor to 1 insured account per institution;

(B) reducing the amount insured, or providing for a graduated decrease in the percentage of the amounts deposited which are insured as the amounts deposited increase;

(C) combining Federal with private insurance in order to bring the market discipline of private insurance to bear on the management of the depository institution; and

(D) ensuring, by law or regulation, that on the closing of any insured depository institution, the appropriate Federal insurance fund will honor only its explicit liabilities, and will never make good any losses on deposits not explicitly covered by Federal deposit insurance.

(3) The scope of deposit insurance coverage and its impact on the liability of the insurance fund.

(4) The feasibility of market value accounting, assessments on foreign deposits, limitations on brokered deposits, the addition of collateralized borrowings to the deposit insurance base, and multiple insured accounts.

(5) The impact on the deposit insurance funds of varying State and Federal bankruptcy exemptions and the feasibility of—

(A) uniform exemptions;

(B) limits on exemptions when necessary to repay obligations owed to federally insured depository institutions; and

(C) requiring borrowers from federally insured depository institutions to post a personal or corporate bond when obtaining a mortgage on real property.

(6) Policies to be followed with respect to the recapitalization or closure of insured depository institutions whose capital is depleted to, or near the point of, insolvency.

(7) The efficiency of housing subsidies through the Federal home loan bank system.

(8) Alternatives to Federal deposit insurance.

(9) The feasibility of developing and administering, through the appropriate Federal banking agency, an examination of the principles and techniques of risk management and the application of such principles and techniques to the management of insured institutions.

(10) The adequacy of capital of insured credit unions and the National Credit Union Share Insurance Fund, including whether the supervision of such fund should be separated from the other functions of the National Credit Union Administration.

(11) The feasibility of requiring, by statute or other means, that—

(A) independent auditors and accountants of a depository institution report the results of any audit of the institution to the relevant regulatory agency or agencies;

(B) a regulator share reports on a depository institution with the institution's independent auditors and accountants; and

(C) independent auditors and accountants participate in conferences between the regulator and the depository institution.

(12) The feasibility of adopting regulations which are the same as or similar to the provisions of England's Banking Act, 1987, ch. 22 (4 Halsbury's Statutes of England and Wales 527-650 (1987)), enacted on May 15, 1987, relating to the Bank of England's relationship with auditors and reporting accountants (including sections 8, 39, 41, 45, 46, 47, 82, 83, 85, and 94 of such Act).

(c) Final Report.—Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a final report containing a detailed statement of findings made, and conclusions drawn from, the study conducted under this section, including such recommendations for administrative and legislative action as the Secretary determines to be appropriate.

SEC. 1002. SURVEY OF BANK FEES AND SERVICES.

(a) Annual Survey Required.—The Board of Governors of the Federal Reserve System shall obtain a sample, which is representative by geographic location and size of institution, of—

(1) certain retail banking services provided by insured depository institutions; and

(2) the fees, if any, which are imposed by such institutions for providing such services.

(b) Annual Report to Congress Required.—

(1) Preparation.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsection (a).

(2) Contents of report.—Each report prepared pursuant to paragraph (1) shall include—

(A) a description of any discernable trends in the cost and availability of retail banking services; and

(B) a description of the correlation, if any, between—

(i) any increase in the amount of any deposit insurance premium assessed by the Federal Deposit Insurance Corporation against insured depository institutions;

(ii) any increase in the amount of the fees imposed by such institutions for providing retail banking services; and

(iii) any decrease in the availability of such services.

Reports.

(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit—

(A) the first annual report required under paragraph (1) not later than June 1, 1990; and

(B) each subsequent annual report not later than June 1 of each calendar year beginning after 1990.

(c) SUNSET.—The requirements of subsection (a) shall terminate at the end of the 2-year period beginning on the later of—

(1) the 5-year period beginning on the date of the enactment of this Act; or

(2) the date (if any) during the 2-year period beginning at the end of such 5-year period, on which deposit insurance premiums are increased under section 7 of the Federal Deposit Insurance Act.

SEC. 1003. GENERAL ACCOUNTING OFFICE STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of deposit insurance issues raised by section 1001 emphasizing in particular—

(1) analysis of the policy considerations affecting the scope of deposit insurance coverage;

(2) evaluation of the risks associated with bank insurance contracts both as to the issuing institution and the deposit insurance funds; and

(3) the effect of proposed changes in the definition of "deposit" on—

(A) market discipline; and

(B) the ability of other participants in capital markets to raise funds.

(b) REPORT.—Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Congress the results of the study required by subsection (a).

SEC. 1004. STUDY REGARDING CAPITAL REQUIREMENTS FOR GOVERNMENT-SPONSORED ENTERPRISES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the risks undertaken by all government-sponsored enterprises and the appropriate level of capital for such enterprises consistent with—

(1) the financial soundness and stability of the government-sponsored enterprises;

(2) minimizing any potential financial exposure of the Federal Government; and

(3) minimizing any potential impact on borrowing of the Federal Government.

(b) Consultation and Cooperation With Other Agencies.—The Comptroller General shall determine the structure and methodology of the study under this section in consultation with and with the cooperation of the Secretary of Agriculture and the Farm Credit Administration (with respect to the Farm Credit Banks, the Banks for Cooperatives, and the Federal Agricultural Mortgage Corporation), the Secretary of Education (with respect to the Student Loan Marketing Association and the College Construction Loan Corporation), the Secretary of Housing and Urban Development (with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation), and the government-sponsored enterprises.

(c) Access to Relevant Information.—Each government-sponsored enterprise shall provide full and prompt access to the Comptroller General to its books and records and shall promptly provide any other information requested by the Comptroller General. In conducting the study under this section, the Comptroller General may request information from, or the assistance of, any department or agency of the Federal Government that is authorized by law to supervise or approve any of the activities of any government-sponsored enterprise.

(d) Specific Requirements.—The study shall examine and evaluate—

(1) the degrees and types of risks that are undertaken by the government-sponsored enterprises in the course of their operations, including credit risk, interest rate risk, management and operational risk, and business risk;

(2) the most appropriate method or methods for quantifying the types of risks undertaken by the government-sponsored enterprises;

(3) the actual level of risk that exists with respect to each government-sponsored enterprise, which shall take into account factors including the volume and type of securities outstanding that are issued or guaranteed by each government-sponsored enterprise and the extent of off-balance sheet expense of each government-sponsored enterprise;

(4) the appropriateness of applying a risk-based capital standard to each government-sponsored enterprise, taking into account the nature of the business each government-sponsored enterprise conducts;

(5) the costs and benefits to the public from application of a risk-based capital standard to the government-sponsored enterprises and the impact of such a standard on the capability of each government-sponsored enterprise to carry out its purpose under law;

(6) the impact, if any, of the operation of the government-sponsored enterprises on borrowing of the Federal Government;

(7) the overall level of capital appropriate for each of the government-sponsored enterprises; and

(8) the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of government-sponsored enterprises and the financial risk associated with such activities.

(e) Reports to Congress.—The Comptroller General shall submit to the Congress 2 reports regarding the study under this section. The first report shall be submitted to the Congress not later than 9 months after the date of the enactment of this Act and the second report shall be submitted to the Congress not later than 21 months after the date of the enactment of this Act. Each report shall set forth—

(1) the results of the study under this section;

(2) any recommendations of the Comptroller General with respect to appropriate capital standards for each government-sponsored enterprise;

(3) any recommendations of the Comptroller General with respect to information that, in the determination of the Comptroller General, should be provided to the Congress concerning—

(A) the extent and nature of the activities of the government-sponsored enterprises; and

(B) the nature of any periodic reports that the Comptroller General believes should be submitted to the Congress relating to the capital condition and operations of the government-sponsored enterprises; and

(4) any recommendations and opinions of the Secretary of Agriculture, the Secretary of Education, the Secretary of Housing and Urban Development, and the Secretary of the Treasury regarding the report, to the extent that the recommendations and views of such officers differ from the recommendations and opinions of the Comptroller General.

(f) DEFINITION.—For purposes of this section, the term "government-sponsored enterprises" means the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the College Construction Loan Insurance Corporation, the Student Loan Marketing Association.

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

SEC. 1101. PURPOSE.

12 USC 3331.

The purpose of this title is to provide that Federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

SEC. 1102. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1011. ESTABLISHMENT OF APPRAISAL SUBCOMMITTEE.

12 USC 3310.

"There shall be within the Council a subcommittee to be known as the 'Appraisal Subcommittee', which shall consist of the designees of the heads of the Federal financial institutions regulatory agencies.

Each such designee shall be a person who has demonstrated knowledge and competence concerning the appraisal profession.".

12 USC 3332.

SEC. 1103. FUNCTIONS OF APPRAISAL SUBCOMMITTEE.

(a) IN GENERAL.—The Appraisal Subcommittee shall—

(1) monitor the requirements established by States for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions, including a code of professional responsibility;

(2) monitor the requirements established by the Federal financial institutions regulatory agencies and the Resolution Trust Corporation with respect to—

(A) appraisal standards for federally related transactions under their jurisdiction, and

(B) determinations as to which federally related transactions under their jurisdiction require the services of a State certified appraiser and which require the services of a State licensed appraiser;

(3) maintain a national registry of State certified and licensed appraisers who are eligible to perform appraisals in federally related transactions; and

Reports.

(4) transmit an annual report to the Congress not later than January 31 of each year which describes the manner in which each function assigned to the Appraisal Subcommittee has been carried out during the preceding year.

(b) MONITORING AND REVIEWING FOUNDATION.—The Appraisal Subcommittee shall monitor and review the practices, procedures, activities, and organizational structure of the Appraisal Foundation.

12 USC 3333.

SEC. 1104. CHAIRPERSON OF APPRAISAL SUBCOMMITTEE; TERM OF CHAIRPERSON; MEETINGS.

(a) CHAIRPERSON.—The Council shall select the Chairperson of the subcommittee. The term of the Chairperson shall be 2 years.

(b) MEETINGS; QUORUM; VOTING.—The Appraisal Subcommittee shall meet at the call of the Chairperson or a majority of its members when there is business to be conducted. A majority of members of the Appraisal Subcommittee shall constitute a quorum but 2 or more members may hold hearings. Decisions of the Appraisal Subcommittee shall be made by the vote of a majority of its members.

12 USC 3334.

SEC. 1105. OFFICERS AND STAFF.

The Chairperson of the Appraisal Subcommittee shall appoint such officers and staff as may be necessary to carry out the functions of this title consistent with the appointment and compensation practices of the Council.

12 USC 3335.

SEC. 1106. POWERS OF APPRAISAL SUBCOMMITTEE.

The Appraisal Subcommittee may, for the purpose of carrying out this title, establish advisory committees, hold hearings, sit and act at times and places, take testimony, receive evidence, provide information, and perform research, as the Appraisal Subcommittee considers appropriate.

SEC. 1107. PROCEDURES FOR ESTABLISHING APPRAISAL STANDARDS AND REQUIRING THE USE OF CERTIFIED AND LICENSED APPRAISERS.

12 USC 3336.

Appraisal standards and requirements for using State certified and licensed appraisers in federally related transactions pursuant to this title shall be prescribed in accordance with procedures set forth in section 553 of title 5, United States Code, including the publication of notice and receipt of written comments or the holding of public hearings with respect to any standards or requirements proposed to be established.

SEC. 1108. STARTUP FUNDING.

12 USC 3337.

(a) In General.—For purposes of this title, the Secretary of the Treasury shall pay to the Appraisal Subcommittee a one-time payment of $5,000,000 on the date of the enactment of this Act. Thereafter, expenses of the subcommittee shall be funded through the collection of registry fees from certain certified and licensed appraisers pursuant to section 1109 or, if required, pursuant to section 1122(b) of this title.

(b) Additional Funds.—Except as provided in section 1122(b) of this title, funds in addition to the funds provided under subsection (a) may be made available to the Appraisal Subcommittee only if authorized and appropriated by law.

SEC. 1109. ROSTER OF STATE CERTIFIED OR LICENSED APPRAISERS; AUTHORITY TO COLLECT AND TRANSMIT FEES.

12 USC 3338.

(a) In General.—Each State with an appraiser certifying and licensing agency whose certifications and licenses comply with this title, shall—

(1) transmit to the Appraisal Subcommittee, no less than annually, a roster listing individuals who have received a State certification or license in accordance with this title; and

(2) collect from such individuals who perform or seek to perform appraisals in federally related transactions, an annual registry fee of not more than $25, such fees to be transmitted by the State agencies to the Council on an annual basis.

Subject to the approval of the Council, the Appraisal Subcommittee may adjust the dollar amount of registry fees, up to a maximum of $50 per annum, as necessary to carry out its functions under this title.

(b) Use of Amounts Appropriated or Collected.—Amounts appropriated for or collected by the Appraisal Subcommittee under this section shall be used—

(1) to maintain a registry of individuals who are qualified and eligible to perform appraisals in connection with federally related transactions;

(2) to support its activities under this title;

(3) to reimburse the general fund of the Treasury for amounts appropriated to and expended by the Appraisal Subcommittee during the 24-month startup period following the date of the enactment of this title; and

(4) to make grants in such amounts as it deems appropriate to the Appraisal Foundation, to help defray those costs of the foundation relating to the activities of its Appraisal Standards and Appraiser Qualification Boards.

12 USC 3339.

SEC. 1110. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISAL STANDARDS.

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of each such agency or instrumentality. These rules shall require, at a minimum—

(1) that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation; and

(2) that such appraisals shall be written appraisals.

Each such agency or instrumentality may require compliance with additional standards if it makes a determination in writing that such additional standards are required in order to properly carry out its statutory responsibilities.

12 USC 3340.

SEC. 1111. TIME FOR PROPOSAL AND ADOPTION OF STANDARDS.

Appraisal standards established under this title shall be proposed not later than 6 months and shall be adopted in final form and become effective not later than 12 months after the date of the enactment of this Act.

12 USC 3341.

SEC. 1112. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISER QUALIFICATIONS.

Each Federal financial institutions regulatory agency and the Resolution Trust Corporation shall prescribe, in accordance with sections 1113 and 1114 of this title, which categories of federally related transactions should be appraised by a State certified appraiser and which by a State licensed appraiser under this title.

12 USC 3342.

SEC. 1113. TRANSACTIONS REQUIRING THE SERVICES OF A STATE CERTIFIED APPRAISER.

In determining whether an appraisal in connection with a federally related transaction shall be performed by a State certified appraiser, an agency or instrumentality under this title shall consider whether transactions, either individually or collectively, are of sufficient financial or public policy importance to the United States that an individual who performs an appraisal in connection with such transactions should be a State certified appraiser, except that—

(1) a State certified appraiser shall be required for all federally related transactions having a value of $1,000,000 or more; and

Housing.

(2) 1-to-4 unit, single family residential appraisals may be performed by State licensed appraisers unless the size and complexity requires a State certified appraiser.

12 USC 3343.

SEC. 1114. TRANSACTIONS REQUIRING THE SERVICES OF A STATE LICENSED APPRAISER.

All federally related transactions not requiring the services of a State certified appraiser shall be performed by either a State certified or licensed appraiser.

SEC. 1115. TIME FOR PROPOSAL AND ADOPTION OF RULES.

12 USC 3344.

As appropriate, rules issued under sections 1113 and 1114 shall be proposed not later than 6 months and shall be effective upon adoption in final form not later than 12 months after the date of the enactment of this Act.

SEC. 1116. CERTIFICATION AND LICENSING REQUIREMENTS.

12 USC 3345.

(a) In General.—For purposes of this title, the term "State certified real estate appraiser" means any individual who has satisfied the requirements for State certification in a State or territory whose criteria for certification as a real estate appraiser currently meets the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation.

(b) Restriction.—No individual shall be a State certified real estate appraiser under this section unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualification Board of the Appraisal Foundation.

(c) Definition.—As used in this section, the term "State licensed appraiser" means an individual who has satisfied the requirements for State licensing in a State or territory.

(d) Additional Qualification Criteria.—Nothing in this title shall be construed to prevent any Federal agency or instrumentality under this title from establishing such additional qualification criteria as may be necessary or appropriate to carry out the statutory responsibilities of such department, agency, or instrumentality.

SEC. 1117. ESTABLISHMENT OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

12 USC 3346.

To assure the availability of State certified and licensed appraisers for the performance in a State of appraisals in federally related transactions and to assure effective supervision of the activities of certified and licensed appraisers, a State may establish a State appraiser certifying and licensing agency.

SEC. 1118. MONITORING OF STATE APPRAISER CERTIFYING AND LICENSING AGENCIES.

12 USC 3347.

(a) In General.—The Appraisal Subcommittee shall monitor State appraiser certifying and licensing agencies for the purpose of determining whether a State agency's policies, practices, and procedures are consistent with this title. The Appraisal Subcommittee and all agencies, instrumentalities, and federally recognized entities under this title shall not recognize appraiser certifications and licenses from States whose appraisal policies, practices, or procedures are found to be inconsistent with this title.

(b) Disapproval by Appraisal Subcommittee.—The Federal financial institutions, regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation shall accept certifications and licenses awarded by a State appraiser certifying the licensing agency unless the Appraisal Subcommittee issues a written finding that—

(1) the State agency fails to recognize and enforce the standards, requirements, and procedures prescribed pursuant to this title;

(2) the State agency is not granted authority by the State which is adequate to permit the agency to carry out its functions under this title; or

(3) decisions concerning appraisal standards, appraiser qualifications and supervision of appraiser practices are not made in a manner that carries out the purposes of this title.

(c) REJECTION OF STATE CERTIFICATIONS AND LICENSES.—

(1) OPPORTUNITY TO BE HEARD OR CORRECT CONDITIONS.—Before refusing to recognize a State's appraiser certifications or licenses, the Appraisal Subcommittee shall provide that State's certifying and licensing agency a written notice of its intention not to recognize the State's certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal.

(2) ADOPTION OF PROCEDURES.—The Appraisal Subcommittee shall adopt written procedures for taking actions described in this section.

(3) JUDICIAL REVIEW.—A decision of the subcommittee under this section shall be subject to judicial review.

12 USC 3348.

SEC. 1119. RECOGNITION OF STATE CERTIFIED AND LICENSED APPRAISERS FOR PURPOSES OF THIS TITLE.

(a) EFFECTIVE DATE FOR USE OF CERTIFIED OR LICENSED APPRAISERS ONLY.—

(1) IN GENERAL.—Not later than July 1, 1991, all appraisals performed in connection with federally related transactions shall be performed only by individuals certified or licensed in accordance with the requirements of this title.

(2) EXTENSION OF EFFECTIVE DATE.—Subject to the approval of the council, the Appraisal Subcommittee may extend, until December 31, 1991, the effective date for the use of certified or licensed appraisers if it makes a written finding that a State has made substantial progress in establishing a State certification and licensing system that appears to conform to the provisions of this title.

(b) TEMPORARY WAIVER OF APPRAISER CERTIFICATION OR LICENSING REQUIREMENTS FOR STATE HAVING SCARCITY OF QUALIFIED APPRAISERS.—Subject to the approval of the Council, the Appraisal Subcommittee may waive any requirement relating to certification or licensing of a person to perform appraisals under this title if the Appraisal Subcommittee or a State agency whose certifications and licenses are in compliance with this title, makes a written determination that there is a scarcity of certified or licensed appraisers to perform appraisals in connection with federally related transactions in a State leading to inordinate delays in the performance of such appraisals. The waiver terminates when the Appraisal Subcommittee determines that such inordinate delays have been eliminated.

(c) REPORTS TO STATE CERTIFYING AND LICENSING AGENCIES.—The Appraisal Subcommittee, any other Federal agency or instrumentality, or any federally recognized entity shall report any action of a State certified or licensed appraiser that is contrary to the purposes of this title, to the appropriate State agency for a disposition of the subject of the referral. The State agency shall provide the Appraisal Subcommittee or the other Federal agency or instrumentality with a report on its disposition of the matter referred. Subsequent to such disposition, the subcommittee or the agency or instrumentality may take such further action, pursuant to written procedures, it deems necessary to carry out the purposes of this title.

SEC. 1120. VIOLATIONS IN OBTAINING AND PERFORMING APPRAISALS IN FEDERALLY RELATED TRANSACTIONS.

12 USC 3349.

(a) VIOLATIONS.—Except as authorized by the Appraisal Subcommittee in exercising its waiver authority pursuant to section 1119(b), it shall be a violation of this section—

(1) for a financial institution to seek, obtain, or give money or any other thing of value in exchange for the performance of an appraisal by a person who the institution knows is not a State certified or licensed appraiser in connection with a federally related transaction; and

(2) for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Resolution Trust Corporation to knowingly contract for the performance of any appraisal by a person who is not a State certified or licensed appraiser in connection with a real estate related financial transaction defined in section 1121(5) to which such association or corporation is a party.

(b) PENALTIES.—A financial institution that violates subsection (a)(1) shall be subject to civil penalties under section 8(i)(2) of the Federal Deposit Insurance Act or section 206(k)(2) of the Federal Credit Union Act, as appropriate.

(c) PROCEEDING.—A proceeding with respect to a violation of this section shall be an administrative proceeding which may be conducted by a Federal financial institutions regulatory agency in accordance with the procedures set forth in subchapter II of chapter 5 of title 5, United States Code.

SEC. 1121. DEFINITIONS.

12 USC 3350.

For purposes of this title:

(1) STATE APPRAISER CERTIFYING AND LICENSING AGENCY.—The term "State appraiser certifying and licensing agency" means a State agency established in compliance with this title.

(2) APPRAISAL SUBCOMMITTEE; SUBCOMMITTEE.—The terms "Appraisal Subcommittee" and "subcommittee" mean the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(3) COUNCIL.—The term "Council" means the Federal Financial Institutions Examinations Council.

(4) FEDERALLY RELATED TRANSACTION.—The term "federally related transaction" means any real estate-related financial transaction which—

(A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and

(B) requires the services of an appraiser.

(5) REAL ESTATE RELATED FINANCIAL TRANSACTION.—The term "real estate-related financial transaction" means any transaction involving—

(A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof;

(B) the refinancing of real property or interests in real property; and

(C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(6) FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.—The term "Federal financial institutions regulatory agencies" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporations, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration.

(7) FINANCIAL INSTITUTION.—The term "financial institution" means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(8) CHAIRPERSON.—The term "Chairperson" means the Chairperson of the Appraisal Subcommittee selected by the council.

(9) FOUNDATION.—The terms "Appraisal Foundation" and "Foundation" means the Appraisal Foundation established on November 30, 1987, as a not for profit corporation under the laws of Illinois.

(10) WRITTEN APPRAISAL.—The term "written appraisal" means a written statement used in connection with a federally related transaction that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

12 USC 3351.

SEC. 1122. MISCELLANEOUS PROVISIONS.

(a) TEMPORARY PRACTICE.—A State appraiser certifying or licensing agency shall recognize on a temporary basis the certification or license of an appraiser issued by another State if—

(1) the property to be appraised is part of a federally related transaction,

(2) the appraiser's business is of a temporary nature, and

(3) the appraiser registers with the appraiser certifying or licensing agency in the State of temporary practice.

(b) SUPPLEMENTAL FUNDING.—Funds available to the Federal financial institutions regulatory agencies may be made available to the Federal Financial Institutions Examination Council to support the council's functions under this title.

(c) PROHIBITION AGAINST DISCRIMINATION.—Criteria established by the Federal financial institutions regulatory agencies, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Resolution Trust Corporation for appraiser qualifications in addition to State certification or licensing shall not exclude a certified or licensed appraiser for consideration for an assignment solely by virtue of membership or lack of membership in any particular appraisal organization.

(d) OTHER REQUIREMENTS.—A corporation, partnership, or other business entity may provide appraisal services in connection with federally related transactions if such appraisal is prepared by individuals certified or licensed in accordance with the requirements of this title. An individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if—

(1) the assistant is under the direct supervision of a licensed or certified individual; and

(2) the final appraisal document is approved and signed by an individual who is certified or licensed.

(e) STUDIES.—

(1) STUDY.—The Appraisal Subcommittee shall—

(A) conduct a study to determine whether real estate sales and financing information and data that is available to real estate appraisers in the States is sufficient to permit appraisers to properly estimate the values of properties in connection with federally related transactions; and

(B) study the feasibility and desirability of extending the provisions of this title to the function of personal property appraising and to personal property appraisers in connection with Federal financial and public policy interests.

(2) REPORT.—The Appraisal Subcommittee shall—

(A) report its findings to the Congress with respect to the study described in paragraph (1)(A) no later than 12 months after the date of the enactment of this title, and

(B) report its findings with respect to the study described in paragraph (1)(B) to Congress not later than 18 months after the date of the enactment of this title.

TITLE XII—MISCELLANEOUS PROVISIONS

SEC. 1201. GAO STUDY OF CREDIT UNION SYSTEM.

12 USC 1752a note.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a comprehensive study of the Nation's credit union system. In conducting the study, the Comptroller General shall examine—

(1) credit unions' present and future role in the financial marketplace;

(2) the financial condition of credit unions;

(3) credit union capital;

(4) credit union regulation and supervision on both the Federal and State levels;

(5) whether the National Credit Union Administration examinations of credit unions are comparable in frequency and quality to supervisory examinations of insured banks and savings associations;

(6) the structure and financial condition of the National Credit Union Share Insurance Fund, including whether supervision of that Fund should be separated from the other functions of the National Credit Union Administration Board; and

(7) whether the common bond rules regarding credit union membership continue to serve their original purpose.

Comparative information with other types of depository institutions should be included.

Reports.

(b) SUBMISSION.—Before the close of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a final report which shall contain a detailed statement of findings and conclusions, including recommendations for such administrative and legislative action as the Comptroller General deems advisable.

SEC. 1202. OCC EMPLOYMENT PROVISION.

The 3rd undesignated paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking out the 1st sentence and inserting in lieu thereof the following:

"Notwithstanding any of the preceding provisions of this section to the contrary, the Comptroller of the Currency shall fix the compensation and number of, and appoint and direct, all employees of the Office of the Comptroller of the Currency. Rates of basic pay for all employees of the Office may be set and adjusted by the Comptroller without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code. The Comptroller may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Comptroller shall consult with, and seek to maintain comparability with, other Federal banking agencies."; and

(2) by redesignating the remaining sentences of such undesignated paragraph as a new undesignated paragraph.

SEC. 1203. NCUA EMPLOYMENT PROVISION.

Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by adding at the end thereof the following new subsection:

"(j) STAFF.—

"(1) APPOINTMENT AND COMPENSATION.—The Board shall fix the compensation and number of, and appoint and direct, employees of the Board. Rates of basic pay for employees of the Board may be set and adjusted by the Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

"(2) ADDITIONAL COMPENSATION AND BENEFITS.—The Board may provide additional compensation and benefits to employees of the Board if the same type of compensation or benefits are then being provided by any other Federal bank regulatory agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Board, the Board shall seek to maintain comparability with other Federal bank regulatory agencies.

"(3) FUNDING.—The salaries and expenses of the Board and employees of the Board shall be paid from fees and assessments (including income earned on insurance deposits) levied on insured credit unions under this Act.".

12 USC 1811 note.

SEC. 1204. EXPANSION OF USE OF UNDERUTILIZED MINORITY BANKS, WOMEN'S BANKS, AND LOW-INCOME CREDIT UNIONS.

(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the appropriate Federal banking agencies and the National Credit Union Administration Board on methods for increasing the use of underutilized minority banks, women's banks, and limited income credit unions as depositaries or financial agents of Federal agencies.

(b) **Report to Congress.**—The Secretary of the Treasury shall include, in the 1st annual report submitted to the Congress under section 331(a) of title 31, United States Code, after the completion of the consultation required by subsection (a), a report of the actions taken by the Secretary to increase the use of underutilized minority banks, women's banks, and limited income credit unions as depositaries or financial agents of Federal agencies.

(c) **Definitions.**—For purposes of this section:

(1) **Appropriate federal banking agency.**—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) **Minority bank.**—The term "minority bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

(3) **Minority.**—The term "minority" means any Black American, Native American, Hispanic American, or Asian American.

(4) **Low-income credit union.**—The term "low-income credit union" means any depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act which serves predominately low-income members (as defined by the National Credit Union Administration Board pursuant to section 101(5) of the Federal Credit Union Act).

(5) **Women's bank.**—The term "women's bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(A) more than 50 percent of the outstanding shares of which are held by 1 or more women;

(B) a majority of the directors on the board of directors of which are women; and

(C) a significant percentage of senior management positions of which are held by women.

SEC. 1205. CREDIT STANDARDS ADVISORY COMMITTEE.

12 USC 1818 note.

(a) **Establishment.**—There is hereby established the Credit Standards Advisory Committee (in this section referred to as the "Committee").

(b) **Membership.**—

(1) **Appointment.**—The Committee shall consist of 11 members, as follows:

(A) The Chairman of the Board of Governors of the Federal Reserve System, or the Chairman's designee.

(B) The Director of the Office of Thrift Supervision, or the Director's designee.

(C) The Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson's designee.

(D) The Comptroller of the Currency, or the Comptroller's designee.

(E) The Chairman of the National Credit Union Administration, or the Chairman's designee.

(F) 6 members of the public appointed by the President who are knowledgeable with the credit standards and lending practices of insured depository institutions, no more than 3 of whom shall be from the same political party.

(2) TERMS.—Each member appointed under paragraph (1)(F) shall serve for the life of the Committee.

(3) CHAIRPERSON.—The members shall elect a chairperson of the Committee who shall serve for a term of 1 year.

(4) VACANCIES.—Any vacancy on the Committee shall be filled in the manner in which the original appointment was made.

(5) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee. All expenses of the Committee shall be shared on a pro rata basis, based upon each agency's total budget for the preceding year by the Federal financial regulators specified in subparagraphs (A) through (E) of paragraph (1).

(6) MEETINGS.—The Committee shall meet, not less frequently than quarterly, at the call of the chairperson or a majority of the members.

(c) DUTIES OF THE COMMITTEE.—The Committee shall do the following:

(1) REVIEW CREDIT STANDARDS, LENDING PRACTICES, AND SUPERVISION BY FEDERAL REGULATORS.—Review the credit standards and lending practices of insured depository institutions and the supervision of such standards and practices by the Federal financial regulators.

(2) PREPARE RECOMMENDATIONS.—Prepare written comments and recommendations for the Federal financial regulators to ensure that insured depository institutions adhere to prudential credit standards and lending practices that are consistent for all insured depository institutions, to the maximum extent possible.

(3) MONITOR CREDIT STANDARDS, LENDING PRACTICES, AND SUPERVISION BY FEDERAL REGULATORS.—Monitor the credit standards and lending practices of insured depository institutions, and the supervision of such standards and practices by the Federal financial regulators, to ensure that insured depository institutions can meet the demands of a modern and globally competitive financial world.

(d) ANNUAL REPORT.—

(1) REQUIRED.—Not later than January 30 of each year, the Committee shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS.—The report required by paragraph (1) shall describe the activities of the Committee during the preceding year and the reports and recommendations made by the Committee to the Federal financial regulators.

(e) CONFLICT OF INTEREST GUIDELINES.—The Committee shall prescribe such guidelines as the Committee determines to be appropriate to avoid conflicts of interest with respect to the disclosure to and use by members of the Committee of information relating to insured depository institutions and the Federal financial regulators.

SEC. 1206. COMPARABILITY IN COMPENSATION SCHEDULES.

12 USC 1833b.

The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Credit Union Administration Board, the Federal Housing Finance Board, the Oversight Board of the Resolution Trust Corporation, the Farm Credit Administration, and the Office of Thrift Supervision, in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of the other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

SEC. 1207. STUDY BY SECRETARY OF THE TREASURY.

Reports.
12 USC 1811 note.

Not later than the close of the 18-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall conduct a study and report to the Congress on—

(1) whether, and to what extent, the issuance of securities by the United States Government in small denominations benefits small investors, increases the participation of small investors in United States Government securities offerings, and promotes savings and thrift by the average United States taxpayer; and

(2) additional measures the Secretary recommends be taken to expand the availability of securities issued by the United States Government to benefit small investors, increase their participation in United States Government securities offerings, and to promote savings and thrift by the average United States taxpayer.

SEC. 1208. EXPENDITURE OF TAXPAYER MONEY ONLY FOR DEPOSIT INSURANCE PURPOSES.

12 USC 1811 note.

Funds appropriated to the Secretary of the Treasury pursuant to an authorization contained in this Act, and any amount authorized to be borrowed from the Secretary of the Treasury by any entity pursuant to this Act, may only be used as permitted by law, and may not otherwise be used for making any payment to any shareholder in, or creditor to, any insured depository institution.

SEC. 1209. AMENDMENT TO SECTION 5373 OF TITLE 5, UNITED STATES CODE.

Paragraph (2) of section 5373 of title 5, United States Code, is amended to read as follows:

"(2) sections 248, 482, 1766, and 1819 of title 12, section 206 of the Bank Conservation Act, sections 2B(b) and 21A(e)(4) of the Federal Home Loan Bank Act, section 2A(i) of the Home Owners' Loan Act, and sections 5.11 and 5.58 of the Farm Credit Act of 1971;".

SEC. 1210. FARM CREDIT ADMINISTRATION AND FARM CREDIT SYSTEM INSURANCE CORPORATION EMPLOYMENT PROVISION.

Section 5.11(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2245) is amended to read as follows:

"(2) OFFICERS AND EMPLOYEES.—

"(A) APPOINTMENT, COMPENSATION, AND BENEFITS.—The Chairman shall fix the compensation and number of, and appoint and direct, employees of the Administration. The Chairman may set and adjust the rates of basic pay for employees of the Administration without regard to the provisions of chapter 51, or subchapter III of chapter 53, of title 5, United States Code. The Chairman may provide such additional compensation and benefits to employees of the Administration as is necessary to maintain comparability with the total amount of compensation and benefits provided by other Federal bank regulatory agencies. In setting and adjusting the total amount of compensation and benefits for employees of the Administration, the Chairman shall consult with, and seek to maintain comparability with, other Federal bank regulatory agencies.

"(B) OTHER FEDERAL BANK REGULATORY AGENCIES DEFINED.—For purposes of this subsection, the term 'other Federal bank regulatory agencies' has the same meaning given to the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act.

"(C) ETHICS IN GOVERNMENT.—The officers and employees of the agency shall be—

"(i) subject to the Ethics in Government Act of 1978; and

"(ii) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code.".

SEC. 1211. FAIR LENDING OVERSIGHT AND ENFORCEMENT.

(a) INFORMATION REGARDING INCOME LEVEL, RACIAL CHARACTERISTICS, AND GENDER OF MORTGAGORS AND MORTGAGE APPLICANTS.—Section 304(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(b)) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon at the end;

(2) in paragraph (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the number and dollar amount of mortgage loans and completed applications involving mortgagors or mortgage applicants grouped according to census tract, income level, racial characteristics, and gender.".

(b) SUBMISSION TO AGENCIES.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following:

Regulations. Public information.

"(h) SUBMISSION TO AGENCIES.—The data required to be disclosed under subsection (b)(4) shall be submitted to the appropriate agency for each institution reporting under this title. Notwithstanding the requirement of section 304(a)(2)(A) for disclosure by census tract, the Board, in cooperation with other appropriate regulators, including—

"(1) the Comptroller of the Currency for national banks;

"(2) the Director of the Office of Thrift Supervision for savings associations;

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;

"(4) the National Credit Union Administration Board for credit unions; and

"(5) the Secretary of Housing and Urban Development for other lending institutions not regulated by the agencies referred to in paragraphs (1) through (4),

shall develop regulations prescribing the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public. These regulations shall also require the collection of data required to be disclosed under subsection (b)(4) with respect to loans sold by each institution reporting under this title, and, in addition, shall require disclosure of the class of the purchaser of such loans. Any reporting institution may submit in writing to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.".

(c) INFORMATION REGARDING LOAN APPLICATIONS.—

(1) GENERAL REPORTING REQUIREMENT.—Section 304(a)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(1)) is amended by striking out "originated, or" and inserting in lieu thereof "originated (or for which the institution received completed applications), or".

(2) CONFORMING AMENDMENTS.—

(A) The last sentence of section 304(a)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(2)) is amended by inserting after "originated or purchased" the following: "(or for which completed applications were received)".

(B) Section 304(g)(1) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(1)) is amended by inserting after "made" the following: "(or for which completed applications are received)".

(C) Section 304(g)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(g)(2)) is amended by inserting after "approved" the following: "(or for which completed applications are received)".

(D) The first sentence of section 311 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2810) is amended by inserting after "approved" the following: "(or for which completed applications are received)".

(d) APPLICABILITY OF REPORTING REQUIREMENTS TO ALL MORTGAGE LENDERS.—Section 303(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802(2)) is amended to read as follows:

"(2) the term 'depository institution'—

"(A) means—

"(i) any bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act);

"(ii) any savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act); and

"(iii) any credit union,

which makes federally related mortgage loans as determined by the Board; and

"(B) includes any other lending institution (as defined in paragraph (4)) other than any institution described in subparagraph (A);".

(e) COMPLETED APPLICATION DEFINED.—Section 303 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2802) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) the term 'completed application' means an application in which the creditor has received the information that is regularly obtained in evaluating applications for the amount and type of credit requested;

"(4) the term 'other lending institutions' means any person engaged for profit in the business of mortgage lending;".

(f) APPLICABILITY OF HOME MORTGAGE DISCLOSURE ACT.—Section 304(a)(2) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)(2)) is amended by inserting at the end the following new sentence: "For purposes of this paragraph, other lending institutions shall be deemed to have a home office or branch office within a primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area that is not comprised of designated primary metropolitan statistical areas if such institutions have originated or purchased or received completed applications for at least 5 mortgage loans in such area in the preceding calendar year.".

(g) AMENDMENT TO ENFORCEMENT PROVISIONS.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) other lending institutions, by the Secretary of Housing and Urban Development.".

(h) REPORT ON UTILITY OF DATA.—Section 308 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2807) is amended to read as follows:

"SEC. 308. REPORT.

"The Board, in consultation with the Secretary of Housing and Urban Development, shall report annually to the Congress on the utility of the requirements of section 304(b)(4).".

(i) CONFORMING AMENDMENT TO FORMAT REQUIREMENT.—Section 304(e) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(e)) is amended by striking out "The Board" and inserting in lieu thereof "Subject to subsection (h), the Board".

(j) EXEMPTION FROM CERTAIN DISCLOSURE REQUIREMENTS.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by inserting after subsection (h) (as added by subsection (b) of this section) the following new subsection:

"(i) EXEMPTION FROM CERTAIN DISCLOSURE REQUIREMENTS.—The requirements of subsection (b)(4) shall not apply with respect to any depository institution described in section 303(2)(A) which has total assets, as of the most recent full fiscal year of such institution, of $30,000,000 or less.".

12 USC 2802 note.

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to each calendar year beginning after December 31, 1989.

SEC. 1212. AMENDMENT TO THE COMMUNITY REINVESTMENT ACT OF 1977.

(a) CONFORMING AMENDMENT TO DEFINITION OF REGULATED FINANCIAL INSTITUTION.—Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by striking out "insured bank as defined in section 3 of the Federal Deposit Insurance Act or an insured institution as defined in section 401 of the National Housing Act" and inserting in lieu thereof "insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act)".

(b) EXAMINATION IMPROVEMENT.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 807. WRITTEN EVALUATIONS.

12 USC 2906.

"(a) REQUIRED.—

Disadvantaged persons.

"(1) IN GENERAL.—Upon the conclusion of each examination of an insured depository institution under section 804, the appropriate Federal depository institutions regulatory agency shall prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods.

"(2) PUBLIC AND CONFIDENTIAL SECTIONS.—Each written evaluation required under paragraph (1) shall have a public section and a confidential section.

"(b) PUBLIC SECTION OF REPORT.—

"(1) FINDINGS AND CONCLUSIONS.—The public section of the written evaluation shall—

"(A) state the appropriate Federal depository institutions regulatory agency's conclusions for each assessment factor identified in the regulations prescribed by the Federal depository institutions regulatory agencies to implement this Act;

"(B) discuss the facts supporting such conclusions; and

"(C) contain the institution's rating and a statement describing the basis for the rating.

"(2) ASSIGNED RATING.—The institution's rating referred to in paragraph (1)(C) shall be 1 of the following:

"(A) 'Outstanding record of meeting community credit needs'.

"(B) 'Satisfactory record of meeting community credit needs'.

"(C) 'Needs to improve record of meeting community credit needs'.

"(D) 'Substantial noncompliance in meeting community credit needs'.

Such ratings shall be disclosed to the public on and after July 1, 1990.

"(c) CONFIDENTIAL SECTION OF REPORT.—

"(1) PRIVACY OF NAMED INDIVIDUALS.—The confidential section of the written evaluation shall contain all references that identify any customer of the institution, any employee or officer of the institution, or any person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.

"(2) TOPICS NOT SUITABLE FOR DISCLOSURE.—The confidential section shall also contain any statements obtained or made by the appropriate Federal depository institutions regulatory agency in the course of an examination which, in the judgment of the agency, are too sensitive or speculative in nature to disclose to the institution or the public.

"(3) DISCLOSURE TO DEPOSITORY INSTITUTION.—The confidential section may be disclosed, in whole or part, to the institution, if the appropriate Federal depository institutions regulatory agency determines that such disclosure will promote the objectives of this Act. However, disclosure under this paragraph shall not identify a person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.".

12 USC 1833c.

SEC. 1213. COMPTROLLER GENERAL AUDIT AND ACCESS TO RECORDS.

(a) AUDIT OF AGENCIES OR OTHER PERSONS PERFORMING FUNCTIONS UNDER BANKING LAWS.—

(1) IN GENERAL.—Except as provided in paragraph (2), all agencies, corporations, organizations, and other persons of any description which perform any function or activity under this Act, or any other Act which is amended by this Act, shall be subject to audit by the Comptroller General of the United States with respect to such function or activity.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) any function or activity of the Board of Governors of the Federal Reserve System or the Federal Reserve banks that is described in any paragraph of section 714(b) of title 31, United States Code; and

(B) any function or activity of the Federal National Mortgage Association, except as provided in section 309(j) of the Federal National Mortgage Association Charter Act.

(b) AUDIT OF PERSONS PROVIDING CERTAIN GOODS OR SERVICES.—All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under this Act shall be subject to audit by the Comptroller General with respect to such provision of goods or services or receipt of financial assistance.

(c) PROVISIONS APPLICABLE TO AUDITS UNDER THIS SECTION.—

(1) NATURE AND SCOPE OF AUDIT.—The Comptroller General shall determine the nature, scope, and terms and conditions of audits conducted under this section.

(2) COORDINATION WITH OTHER PROVISIONS OF LAW.—The authority of the Comptroller General under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this Act or any other law.

(3) RIGHTS OF ACCESS, EXAMINATION, AND COPYING.—The Comptroller General, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession or control of any agency or person which is subject to audit under this section which the Comptroller General deems relevant to an audit conducted under this section.

(4) ENFORCEMENT OF RIGHT OF ACCESS.—The Comptroller General's right of access to information under this section shall be enforceable pursuant to section 716 of title 31, United States Code.

(5) MAINTENANCE OF CONFIDENTIAL RECORDS.—The provisions of section 716(e) of title 31, United States Code, shall apply to information obtained by the Comptroller General under this section.

SEC. 1214. AMENDMENT RELATED TO THE HART-SCOTT-RODINO ACT.

Section 7A(c) of the Clayton Act (15 U.S.C. 18a(c)) is amended—

(1) in paragraph (7), by inserting "section 10(e) of the Home Owners' Loan Act," after "transactions which require agency approval under"; and

(2) in paragraph (8), by striking out ", section 403 or 408(e) of the National Housing Act (12 U.S.C. 1726 and 1730a),".

12 USC 1833d.

SEC. 1215. CAPITAL AND ACCOUNTING STANDARDS.

Reports.

Federal Register, publication.

Before the end of the 1-year period beginning on the date of the enactment of this Act, each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) shall establish uniform accounting standards to be used for determining the capital ratios of all federally insured depository institutions and for other regulatory purposes. Each such agency shall report annually to the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives any differences between the capital standard used by such agency and capital standards used by any other such agency. Each such report shall contain an explanation of the reasons for any discrepancy in such capital standards, and shall be published in the Federal Register.

12 USC 1833e.

SEC. 1216. EQUAL OPPORTUNITY.

(a) In General.—For purposes of this Act, Executive Order Numbered 11478, providing for equal employment opportunity in the Federal Government, shall apply to—

(1) the Comptroller of the Currency;

(2) the Director of the Office of Thrift Supervision;

(3) the Federal home loan banks;

(4) the Federal Deposit Insurance Corporation;

(5) the Oversight Board of the Resolution Trust Corporation; and

(6) the Resolution Trust Corporation.

(b) Affirmative Program for Equal Employment Opportunity.—For purposes of this Act, sections 1 and 2 of Executive Order Numbered 11478, providing for the adoption and implementation of equal employment opportunity, shall apply to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

Regulations. Minorities. Women.

(c) Solicitation of Contracts.—The Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Housing Finance Board, the Oversight Board of the Resolution Trust Corporation, and the Resolution Trust Corporation shall each prescribe regulations to establish and oversee a minority outreach program within each such agency to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the agency with such persons or entities, public and private, in order to manage the institutions and their assets for which the agency is responsible or to perform such other functions authorized under any law applicable to such agency.

(d) Report to Congress.—Before the end of the 180-day period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

(1) the Federal Deposit Insurance Corporation;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(4) the Federal Housing Finance Board;

(5) the Oversight Board of the Resolution Trust Corporation;

(6) the Resolution Trust Corporation;

(7) the Federal Home Loan Mortgage Corporation; and

(8) the Federal National Mortgage Association,

shall each submit to the Congress a report containing a complete description of the actions taken by such agency pursuant to subsections (a) and (b) and such recommendations for administrative and legislative action as each such agency may determine to be appropriate to carry out the purposes of such subsection.

SEC. 1217. NCUA POWERS AS LIQUIDATING AGENT AND CONSERVATOR.

(a) In General.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended—

(1) in subsection (a), by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2);

(2) by striking subsections (d) and (j);

(3) by redesignating subsections (b), (c), (e), (f), (g), (h), and (i) as subsections (j), (k), (l), (m), (n), (o), and (p), respectively;

(4) by inserting after subsection (a) the following new subsections:

"(b) Powers and Duties of Board as Conservator or Liquidating Agent.—

"(1) Rulemaking authority of board.—The Board may prescribe such regulations as the Board determines to be appropriate regarding the conduct of the Board as conservator or liquidating agent.

"(2) General powers.—

"(A) Successor to credit union.—The Board shall, as conservator or liquidating agent, and by operation of law, succeed to—

"(i) all rights, titles, powers, and privileges of the credit union, and of any member, accountholder, officer, or director of such credit union with respect to the credit union and the assets of the credit union; and

"(ii) title to the books, records, and assets of any previous conservator or other legal custodian of such credit union.

"(B) Operate the credit union.—The Board may, as conservator or liquidating agent—

"(i) take over the assets of and operate the credit union with all the powers of the members or shareholders, the directors, and the officers of the credit union and shall be authorized to conduct all business of the credit union;

"(ii) collect all obligations and money due the credit union;

"(iii) perform all functions of the credit union in the name of the credit union which is consistent with the appointment as conservator or liquidating agent; and "(iv) preserve and conserve the assets and property of such credit union.

"(C) FUNCTIONS OF CREDIT UNION'S OFFICERS, DIRECTORS, AND SHAREHOLDERS.—The Board may, by regulation or order, provide for the exercise of any function by any member or stockholder, director, or officer of any credit union for which the Board has been appointed conservator or liquidating agent.

"(D) POWERS AS CONSERVATOR.—The Board may, as conservator, take such action as may be—

"(i) necessary to put the credit union in a sound and solvent condition; and

"(ii) appropriate to carry on the business of the credit union and preserve and conserve the assets and property of the credit union.

"(E) ADDITIONAL POWERS AS LIQUIDATING AGENT.—The Board may, as liquidating agent, place the credit union in liquidation and proceed to realize upon the assets of the credit union, having due regard to the conditions of credit in the locality.

"(F) PAYMENT OF VALID OBLIGATIONS.—The Board, as conservator or liquidating agent, shall pay all valid obligations of the credit union in accordance with the prescriptions and limitations of this Act.

"(G) INCIDENTAL POWERS.—The Board may, as conservator or liquidating agent—

"(i) exercise all powers and authorities specifically granted to conservators or liquidating agents, respectively, under this Act and such incidental powers as shall be necessary to carry out such powers; and

"(ii) take any action authorized by this Act,

which the Board determines is in the best interests of the credit union, its account holders, or the Board.

"(3) AUTHORITY OF LIQUIDATING AGENT TO DETERMINE CLAIMS.—

"(A) IN GENERAL.—The Board may, as liquidating agent, determine claims in accordance with the requirements of this subsection and regulations prescribed under paragraph (4).

"(B) NOTICE REQUIREMENTS.—The liquidating agent, in any case involving the liquidation or winding up of the affairs of a closed credit union, shall—

"(i) promptly publish a notice to the credit union's creditors to present their claims, together with proof, to the liquidating agent by a date specified in the notice which shall be not less than 90 days after the publication of such notice; and

"(ii) republish such notice approximately 1 month and 2 months, respectively, after the publication under clause (i).

"(C) MAILING REQUIRED.—The liquidating agent shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the credit union's books—

"(i) at the creditor's last address appearing in such books; or "(ii) upon discovery of the name and address of a claimant not appearing on the credit union's books within 30 days after the discovery of such name and address.

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—The Board may prescribe regulations regarding the allowance or disallowance of claims by the liquidating agent and providing for administrative determination of claims and review of such determination.

"(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

"(A) DETERMINATION PERIOD.—

"(i) IN GENERAL.—Before the end of the 180-day period beginning on the date any claim against a credit union is filed with the Board as liquidating agent, the Board shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

"(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Board.

"(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

"(I) on the credit union's books;

"(II) in the claim filed by the claimant; or

"(III) in documents submitted in proof of the claim.

"(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

"(I) a statement of each reason for the disallowance; and

"(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

"(B) ALLOWANCE OF PROVEN CLAIMS.—The liquidating agent shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the liquidating agent from any claimant which is proved to the satisfaction of the liquidating agent.

"(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (3)(B)(i) shall be disallowed and such disallowance shall be final.

"(ii) CERTAIN EXCEPTIONS.—Clause (i) shall not apply with respect to any claim filed by any claimant after the date specified in the notice published under paragraph (3)(B)(i) and such claim may be considered by the liquidating agent if—

"(I) the claimant did not receive notice of the appointment of the liquidating agent in time to file such claim before such date; and

"(II) such claim is filed in time to permit payment of such claim.

"(D) AUTHORITY TO DISALLOW CLAIMS.—The liquidating agent may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the liquidating agent.

"(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the Board's determination pursuant to subparagraph (D) to disallow a claim.

"(F) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the liquidating agent shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the liquidating agent shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the liquidating agent.

"(6) PROVISION FOR AGENCY REVIEW OR JUDICIAL DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—Before the end of the 60-day period beginning on the earlier of—

"(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a credit union for which the Board is liquidating agent; or

"(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i),

the claimant may request administrative review of the claim in accordance with subparagraph (A) or (B) of paragraph (7) or file suit on such claim (or continue an action commenced before the appointment of the liquidating agent) in the district or territorial court of the United States for the district within which the credit union's principal place of business is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim).

"(B) STATUTE OF LIMITATIONS.—If any claimant fails to—

"(i) request administrative review of any claim in accordance with subparagraph (A) or (B) of paragraph (7); or

"(ii) file suit on such claim (or continue an action commenced before the appointment of the liquidating agent),

before the end of the 60-day period described in subparagraph (A), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the liquidating agent) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(7) REVIEW OF CLAIMS.—

"(A) ADMINISTRATIVE HEARING.—If any claimant requests review under this subparagraph in lieu of filing or continuing any action under paragraph (6) and the Board agrees to such request, the Board shall consider the claim after opportunity for a hearing on the record. The final determination of the Board with respect to such claim shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(B) OTHER REVIEW PROCEDURES.—

"(i) IN GENERAL.—The Board shall also establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

"(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Board shall strive for procedures which are expeditious, fair, independent, and low cost.

"(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Board may establish both binding and nonbinding processes, which may be conducted by any government or private party, but all parties, including the claimant and the Board, must agree to the use of the process in a particular case.

"(iv) CONSIDERATION OF INCENTIVES.—The Board shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

"(8) EXPEDITED DETERMINATION OF CLAIMS.—

"(A) ESTABLISHMENT REQUIRED.—The Board shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

"(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any credit union for which the Board has been appointed liquidating agent; and

"(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

"(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date any claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Board shall—

"(i) determine—

"(I) whether to allow or disallow such claim; or

"(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (5); or

"(ii) notify the claimant of the determination, and if the claim is disallowed, a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

"(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the appointment of the liquidating agent, seeking a determination of the claimant's rights with respect to such security interest after the earlier of—

"(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

"(ii) the date the Board denies the claim.

"(D) STATUTE OF LIMITATIONS.—If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the

30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the liquidating agent), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

"(E) LEGAL EFFECT OF FILING.—

"(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the liquidating agent shall constitute a commencement of an action.

"(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (12), the filing of a claim with the liquidating agent shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the liquidating agent.

"(9) AGREEMENT AS BASIS OF CLAIM.—

"(A) REQUIREMENTS.—Except as provided in subparagraph (B), any agreement which does not meet the requirements set forth in section 208(a)(3) shall not form the basis of, or substantially comprise, a claim against the liquidating agent or the Board.

"(B) EXCEPTION TO CONTEMPORANEOUS EXECUTION REQUIREMENT.—Notwithstanding section 208(a)(3), any agreement between a Federal home loan bank or Federal Reserve bank and any insured credit union which was executed before the extension of credit by such bank to such credit union shall be treated as having been executed contemporaneously with such extension of credit for purposes of subparagraph (A).

"(10) PAYMENT OF CLAIMS.—

"(A) IN GENERAL.—The liquidating agent may, in the liquidating agent's discretion and to the extent funds are available, pay creditor claims which are allowed by the liquidating agent, approved by the Board pursuant to a final determination pursuant to paragraph (7) or (8), or determined by the final judgment of any court of competent jurisdiction in such manner and amounts as are authorized under this Act.

"(B) PAYMENT OF DIVIDENDS ON CLAIMS.—The liquidating agent may, in the liquidating agent's sole discretion, pay dividends on proved claims at any time, and no liability shall attach to the Board (in such Board's corporate capacity or as liquidating agent), by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

"(11) DISTRIBUTION OF ASSETS.—

"(A) SUBROGATED CLAIMS; CLAIMS OF UNINSURED ACCOUNTHOLDERS AND OTHER CREDITORS.—The liquidating agent shall—

"(i) retain for the account of the Board such portion of the amounts realized from any liquidation as the Board may be entitled to receive in connection with the subrogation of the claims of accountholders; and

"(ii) pay to accountholders and other creditors the net amounts available for distribution to them.

"(B) DISTRIBUTION TO SHAREHOLDERS OF AMOUNTS REMAINING AFTER PAYMENT OF ALL OTHER CLAIMS AND EXPENSES.—In any case in which funds remain after all accountholders, creditors, other claimants, and administrative expenses are paid, the liquidating agent shall distribute such funds to the credit union's shareholders or members together with the accounting report required under paragraph (14)(C).

"(12) SUSPENSION OF LEGAL ACTIONS.—

"(A) IN GENERAL.—After the appointment of a conservator or liquidating agent for an insured credit union, the conservator or liquidating agent may request a stay for a period not to exceed—

"(i) 45 days, in the case of any conservator; and

"(ii) 90 days, in the case of any liquidating agent,

in any judicial action or proceeding to which such credit union is or becomes a party.

"(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by any conservator or liquidating agent pursuant to subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

"(13) ADDITIONAL RIGHTS AND DUTIES.—

"(A) PRIOR FINAL ADJUDICATION.—The Board shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Board as conservator or liquidating agent.

"(B) RIGHTS AND REMEDIES OF CONSERVATOR OR LIQUIDATING AGENT.—In the event of any appealable judgment, the Board as conservator or liquidating agent shall—

"(i) have all the rights and remedies available to the credit union (before the appointment of such conservator or liquidating agent) and the Board in its corporate capacity, including removal to Federal court and all appellate rights; and

"(ii) not be required to post any bond in order to pursue such remedies.

"(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the liquidating agent.

"(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

"(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any credit union for which the Board has been appointed liquidating agent, including assets which the Board may acquire from itself as such liquidating agent; or

"(ii) any claim relating to any act or omission of such credit union or the Board as liquidating agent.

"(14) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR LIQUIDATING AGENT.—

"(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Board as conservator or liquidating agent shall be—

"(i) in the case of any contract claim, the longer of—

"(I) the 6-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law; and

"(ii) in the case of any tort claim, the longer of—

"(I) the 3-year period beginning on the date the claim accrues; or

"(II) the period applicable under State law.

"(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitation begins to run on any claim described in such subparagraph shall be the later of—

"(i) the date of the appointment of the Board as conservator or liquidating agent; or

"(ii) the date on which the cause of action accrues.

"(15) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

"(A) IN GENERAL.—The Board as conservator or liquidating agent shall, consistent with the accounting and reporting practices and procedures established by the Board, maintain a full accounting of each conservatorship and liquidation or other disposition of credit unions in default.

"(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or liquidation to which the Board was appointed, the Board shall make an annual accounting or report, as appropriate, available to the Comptroller General of the United States or, in the case of a State-chartered credit union, the authority which appointed the Board as conservator or liquidating agent.

"(C) AVAILABILITY OF REPORTS.—Any report prepared pursuant to subparagraph (B) shall be made available by the Board upon request to any shareholder of the credit union for which the Board was appointed conservator or liquidating agent or any other member of the public.

"(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date the Board is appointed as liquidating agent of an insured credit union, the Board may destroy any records of such credit union which the Board, in the Board's discretion, determines to be unnecessary unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

"(c) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR LIQUIDATING AGENT.—

"(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or liquidating agent may have, the conservator or liquidating agent for any insured credit union may disaffirm or repudiate any contract or lease—

"(A) to which such credit union is a party;

"(B) the performance of which the conservator or liquidating agent, in the conservator's or liquidating agent's discretion, determines to be burdensome; and

"(C) the disaffirmance or repudiation of which the conservator or liquidating agent determines, in the conservator's or liquidating agent's discretion, will promote the orderly administration of the credit union's affairs.

"(2) TIMING OF REPUDIATION.—The conservator or liquidating agent appointed for any insured credit union shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

"(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or liquidating agent for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

"(i) limited to actual direct compensatory damages; and

"(ii) determined as of—

"(I) the date of the appointment of the conservator or liquidating agent; or

"(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

"(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' does not include—

"(i) punitive or exemplary damages;

"(ii) damages for lost profits or opportunity; or

"(iii) damages for pain and suffering.

"(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

"(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

"(ii) paid in accordance with this subsection and subsection (f) except as otherwise specifically provided in this section.

"(4) LEASES UNDER WHICH THE CREDIT UNION IS THE LESSEE.—

"(A) IN GENERAL.—If the conservator or liquidating agent disaffirms or repudiates a lease under which the credit union was the lessee, the conservator or liquidating agent shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

"(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which such subparagraph applies shall—

"(i) be entitled to the contractual rent accruing before the later of the date—

"(I) the notice of disaffirmance or repudiation is mailed; or

"(II) the disaffirmance or repudiation becomes effective,

unless the lessor is in default or breach of the terms of the lease;

"(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and "(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this subsection and subsection (b).

"(5) LEASES UNDER WHICH THE CREDIT UNION IS THE LESSOR.—

"(A) IN GENERAL.—If the conservator or liquidating agent repudiates an unexpired written lease of real property of the credit union under which the credit union is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

Real property.

"(i) treat the lease as terminated by such repudiation; or

"(ii) remain in possession of the leasehold interest for the balance of the term of the lease unless the lessee defaults under the terms of the lease after the date of such repudiation.

"(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of such subparagraph—

"(i) the lessee—

"(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease;

"(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the credit union under the lease after such date; and

"(ii) the conservator or liquidating agent shall not be liable to the lessee for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II).

"(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

"(A) IN GENERAL.—If the conservator or liquidating agent repudiates any contract (which meets the requirements of each paragraph of section 208(a)(3)) for the sale of real property and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

'(i) treat the contract as terminated by such repudiation; or

"(ii) remain in possession of such real property.

"(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of such subparagraph—

"(i) the purchaser—

"(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

"(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the credit union under the contract; and

"(ii) the conservator or liquidating agent shall—

"(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation other than the amount of any offset allowed under clause (i)(II);

"(II) deliver title to the purchaser in accordance with the provisions of the contract; and

"(III) have no obligation under the contract other than the performance required under subclause (II).

"(C) ASSIGNMENT AND SALE ALLOWED.—

"(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or liquidating agent to assign the contract described in subparagraph (A) and sell the property subject to the contract and the provisions of this paragraph.

"(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described in clause (i) is consummated, the conservator or liquidating agent shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

"(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

"(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any insured credit union for which the Board has been appointed conservator or liquidating agent, any claim of such person for services performed before the appointment of the conservator or the liquidating agent shall be—

"(i) a claim to be paid in accordance with subsection (b); and

"(ii) deemed to have arisen as of the date the conservator or liquidating agent was appointed.

"(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described in subparagraph (A), the conservator or liquidating agent accepts performance by the other person before the conservator or liquidating agent makes any determination to exercise the right of repudiation of such contract under this section—

"(i) the other party shall be paid under the terms of the contract for the services performed; and

"(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or liquidation.

"(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by any conservator or liquidating agent of services referred to in subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or liquidating agent to repudiate such contract under this section at any time after such performance.

"(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

"(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraph (12) of this subsection and notwithstanding any other provision of this Act (other than subsection (b)(9) of this section and section 208(a)(3)), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right to cause the termination or liquidation of any qualified financial contract with an insured credit union which arises upon the appointment of the Board as liquidating agent for such credit union at any time after such appointment;

"(ii) any right under any security arrangement relating to any contract or agreement described in clause (i); or

"(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

"(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(12) shall apply in the case of any judicial action or proceeding brought against any liquidating agent referred to in subparagraph (A), or the credit union for which such liquidating agent was appointed, by any party to a contract or agreement described in subparagraph (A)(i) with such credit union.

"(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

"(i) IN GENERAL.—Notwithstanding paragraph (11), the Board, whether acting as such or as conservator or liquidating agent of an insured credit union, may not avoid any transfer of money or other property in connection with any qualified financial contract with an insured credit union.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with an insured credit union if the Board determines that the transferee had actual intent to hinder, delay, or defraud such credit union, the creditors of such credit union, or any conservator or liquidating agent appointed for such credit union.

"(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—For purposes of this subsection—

"(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, forward contract, repurchase agreement, and any similar agreement that the Board determines by regulation to be a qualified financial contract for purposes of this paragraph.

"(ii) SECURITIES CONTRACT.—The term 'securities contract'—

"(I) has the meaning given to such term in section 741(7) of title 11, United States Code, except that the term 'security' (as used in such section) shall be deemed to include any mortgage loan, any mortgage-related security (as defined in section 3(a)(41) of the Securities Exchange Act of 1934), and any interest in any mortgage loan or mortgage-related security; and

"(II) does not include any participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(iii) FORWARD CONTRACT.—The term 'forward contract' has the meaning given to such term in section 101(24) of title 11, United States Code.

"(iv) REPURCHASE AGREEMENT.—The term 'repurchase agreement'—

"(I) has the meaning given to such term in section 101(41) of title 11, the United States Code, except that the items (as described in such section) which may be subject to any such agreement shall be deemed to include mortgage-related securities (as such term is defined in section 3(a)(41) of the Securities Exchange Act of 1934, any mortgage loan, and any interest in any mortgage loan; and

"(II) does not include any participation in a commercial mortgage loan unless the Board determines by regulation, resolution, or order to include any such participation within the meaning of such term.

"(v) TRANSFER.—The term 'transfer' has the meaning given to such term in section 101(50) of title 11, United States Code.

"(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this Act (other than paragraph (12) of this subsection, subsection (b)(9) of this section, and section 208(a)(3) of this Act), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

"(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a credit union in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

"(ii) any right under any security arrangement relating to such qualified financial contracts; or

"(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

"(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

"(A) transfer to 1 credit union (other than a credit union in default)—

"(i) all qualified financial contracts between—

"(I) any person or any affiliate of such person; and

"(II) the credit union in default;

"(ii) all claims of such person or any affiliate of such person against such credit union under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such credit union);

"(iii) all claims of such credit union against such person or any affiliate of such person under any such contract; and

"(iv) all property securing any claim described in clause (ii) or (iii) under any such contract; or

"(B) transfer none of the financial contracts, claims, or property referred to in subparagraph (A) (with respect to such person and any affiliate of such person).

"(10) NOTIFICATION OF TRANSFER.—

"(A) IN GENERAL.—If—

"(i) the conservator or liquidating agent for an insured credit union in default makes any transfer of the assets and liabilities of such credit union; and

"(ii) the transfer includes any qualified financial contract,

the conservator or liquidating agent shall use such conservator's or liquidating agent's best efforts to notify any person who is a party to any such contract of such transfer by 12:00, noon (local time), on the business day following such transfer.

"(B) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

"(11) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any credit union except where such an interest is taken in contemplation of the credit union's insolvency or with the intent to hinder, delay, or defraud the credit union or the creditors of such credit union.

"(12) AUTHORITY TO ENFORCE CONTRACTS.—

"(A) IN GENERAL.—The conservator or liquidating agent may enforce any contract, other than a director's or officer's liability insurance contract or a credit union bond, entered into by the credit union notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of a conservator or liquidating agent.

"(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or liquidating agent to enforce or recover under a directors or officers liability insurance contract or credit union bond under other applicable law.

"(13) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

"(A) any extension of credit from any Federal home loan bank or Federal Reserve bank to any insured depository institution; or

"(B) any security interest in the assets of the institution securing any such extension of credit.

"(d) PAYMENT OF INSURED DEPOSITS.—

"(1) **In general.**—In case of the liquidation of any insured credit union, payment of the insured deposits in such credit union shall be made by the Board as soon as possible, subject to the provisions of subsection (e) of this section, either by cash or by making available to each accountholder a transferred deposit in a new credit union in the same community or in another insured credit union in an amount equal to the insured deposit of such accountholder.

"(2) **Proof of claims.**—The Board, in its discretion, may require proof of claims to be filed and may approve or reject such claims for insured deposits.

"(3) **Resolution of disputes.**—

"(A) **Resolutions in accordance to board regulations.**—In the case of any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit, the Board may resolve such disputed claim in accordance with regulations prescribed by the Board establishing procedures for resolving such claims.

"(B) **Adjudication of claims.**—If the Board has not prescribed regulations establishing procedures for resolving disputed claims, the Board may require the final determination of a court of competent jurisdiction before paying any such claim.

Courts, U.S. District of Columbia.

"(4) **Review of board's determination.**—Final determination made by the Board shall be reviewable in accordance with chapter 7 of title 5, United States Code, by the United States Court of Appeals for the District of Columbia or the court of appeals for the Federal judicial circuit where the principal place of business of the credit union is located.

"(5) **Statute of limitations.**—Any request for review of a final determination by the Board shall be filed with the appropriate circuit court of appeals not later than 60 days after such determination is ordered.

"(e) **Subrogation of Board.**—

"(1) **In general.**—Notwithstanding any other provision of Federal law, the law of any State, or the constitution of any State, the Board, upon the payment to any accountholder as provided in subsection (d) in connection with any insured credit union described in such subsection or the assumption of any deposit in such credit union by another insured credit union pursuant to this section, shall be subrogated to all rights of the accountholder against such credit union to the extent of such payment or assumption.

"(2) **Dividends on subrogated amounts.**—The subrogation of the Board under paragraph (1) with respect to any insured credit union shall include the right on the part of the Board to receive the same dividends from the proceeds of the assets of such credit union as would have been payable to the accountholder on a claim for the insured deposit, but such accountholder shall retain such claim for any uninsured or unassumed portion of the deposit.

"(f) **Valuation of Claims in Default.**—

"(1) **In general.**—Notwithstanding any other provision of Federal law or the law of any State, this subsection shall govern the rights of the creditors (other than insured accountholders) of such credit union.

"(2) MAXIMUM LIABILITY.—The maximum liability of the Board, acting as liquidating agent or in any other capacity, to any person having a claim against the liquidating agent or the insured credit union for which such liquidating agent is appointed shall equal the amount such claimant would have received if the Board had liquidated the assets and liabilities of such credit union without exercising the Board's authority under subsection (n) of this section.

"(3) ADDITIONAL PAYMENTS AUTHORIZED.—

"(A) IN GENERAL.—The Board may, in its discretion and in the interests of minimizing its losses, use its own resources to make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants. The Board shall not be obligated, as a result of having made any such payment or credited any such amount to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category or claimants.

"(B) MANNER OF PAYMENT.—The Board may make the payments or credit the amounts specified in subparagraph (A) directly to the claimants or may make such payments or credit such amounts to an open insured credit union to induce the open insured credit union to accept liability for such claims.

"(g) LIMITATION ON COURT ACTION.—Except as provided in this section, no court may take any action, except at the request of the Board of Directors by regulation or order, to restrain or affect the exercise of powers or functions of the Board as a conservator or a liquidating agent.

"(h) LIABILITY OF DIRECTORS AND OFFICERS.—A director or officer of an insured credit union may be held personally liable for monetary damages in any civil action by, on behalf of, or at the request or direction of the Board, which action is prosecuted wholly or partially for the benefit of the Board—

"(1) acting as conservator or liquidating agent of such insured credit union,

"(2) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such liquidating agent or conservator, or

"(3) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by an insured credit union or its affiliate in connection with assistance provided under section 208,

for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law. Nothing in this paragraph shall impair or affect any right, if any, of the Board under other applicable law.

"(i) DAMAGES.—In any proceeding related to any claim against an insured credit union's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured credit union, recoverable damages determined to result from the improvident or otherwise improper use or investment of any insured credit union's assets shall include principal losses and appropriate interest."; and

(5) in subsection (k) (as so redesignated by paragraph (3) of this subsection) by striking out the 1st and 5th sentences.

(b) LIMITATION ON COURT ACTION.—Section 206(h)(3) of the Federal Credit Union Act (12 U.S.C. 1786(h)(3)) is amended by adding at the end thereof the following sentence: "Except as provided in this paragraph, no court may take any action, except at the request of the Board by regulation or order, to restrain or affect the exercise of powers or functions of the Board as conservator.".

SEC. 1218. RISK MANAGEMENT TRAINING.

The Federal Financial Institutions Examination Council Act (12 U.S.C. 3301 et seq.) is amended by adding at the end the following new section:

12 USC 3309.

"SEC. 1009A. RISK MANAGEMENT TRAINING.

"(a) SEMINARS.—The Council shall develop and administer training seminars in risk management for its employees and the employees of insured financial institutions.

"(b) STUDY OF RISK MANAGEMENT TRAINING PROGRAM.—Not later than end of the 1-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Council shall—

"(1) conduct a study on the feasibility and appropriateness of establishing a formalized risk management training program designed to lead to the certification of Risk Management Analysts; and

Reports.

"(2) report to the Congress the results of such study.".

SEC. 1219. CROSS-MARKETING RESTRICTIONS.

Section 4(f)(3)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)) is amended by striking clause (ii) and inserting the following:

"(ii) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8), or permit its products or services to be offered or marketed in connection with products and services of an affiliate, unless—

"(I) the Board, by regulation, has determined such products and services are permissible for bank holding companies to provide under subsection (c)(8);

"(II) such products and services are described in section 20 of the Banking Act of 1933 and the Board, by regulation, has permitted bank holding companies to offer or market such products or services, but has prohibited bank holding companies and their affiliates from principally engaging in the offering or marketing of such products or services; or

"(III) such products or services were being so offered or marketed as of March 5, 1987, and then only in the same manner in which they were being offered or marketed as of that date;".

SEC. 1220. REPORT ON LOAN DISCRIMINATION.

(a) In General.—Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Director of the Office of Thrift Supervision, shall each transmit to the Congress a report containing—

(1) findings, based on a review of currently available loan acceptance and rejection statistics, on the extent of discriminatory lending practices by mortgage lenders subject to regulation or supervision by such agency; and

(2) recommendations for appropriate measures to assure nondiscriminatory lending practices.

(b) Scope of HUD Report.—The Secretary of Housing and Urban Development may exclude from the report under subsection (a) any data pertaining to mortgage lenders which are approved mortgagees under title II of the National Housing Act if data pertaining to such lenders is or will be included in the other reports under such subsection.

SEC. 1221. SEPARABILITY OF PROVISIONS.

12 USC 1811 note.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

TITLE XIII—PARTICIPATION BY STATE HOUSING FINANCE AUTHORITIES AND NONPROFIT ENTITIES

SEC. 1301. DEFINITIONS.

12 USC 1441a-1.

For purposes of this title:

(1) State housing finance authority.—The term "State housing finance authority" means any public agency, authority, or corporation which—

(A) serves as an instrumentality of any State or any political subdivision of any State; and

(B) functions as a source of residential mortgage loan financing in that State.

(2) Nonprofit entity.—The term "nonprofit entity" means any not-for-profit corporation chartered under State law that is exempt from Federal taxation under section 501(c) of the Internal Revenue Code of 1986 and no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual (including any nonprofit entity established by the corporation established under title IX of the Housing and Urban Development Act of 1968).

(3) Mortgage-related assets.—The term "mortgage-related assets" means—

(A) residential mortgage loans secured by 1- to 4-family or multifamily dwellings; and

(B) real property improved with 1- to 4-family or multifamily residential dwellings, which are located within the jurisdiction of the applicable State housing finance authority or within the geographical area served by the nonprofit entity.

(4) NET INCOME.—The term "net income" means income after deduction of all associated expenses calculated in accordance with generally accepted accounting principles.

12 USC 1441a-2.

SEC. 1302. AUTHORIZATION FOR STATE HOUSING FINANCE AGENCIES AND NONPROFIT ENTITIES TO PURCHASE MORTGAGE-RELATED ASSETS.

(a) AUTHORIZATION.—Notwithstanding any other provision of Federal or State law, a State housing finance authority or nonprofit entity may purchase mortgage-related assets from the Resolution Trust Corporation or from financial institutions with respect to which the Federal Deposit Insurance Corporation is acting as a conservator or receiver (including assets associated with any trust business), and any contract for such purchase shall be effective in accordance with its terms without any further approval, assignment, or consent with respect to that contract.

Disadvantaged persons.

(b) INVESTMENT REQUIREMENT.—Any State housing finance authority or nonprofit entity which purchases mortgage-related assets pursuant to subsection (a) shall invest any net income attributable to the ownership of those assets in financing, refinancing, or rehabilitating low- and moderate-income housing within the jurisdiction of the State housing finance authority or within the geographical area served by the nonprofit entity.

TITLE XIV—TAX PROVISIONS

SEC. 1401. EARLY TERMINATION OF SPECIAL REORGANIZATION RULES FOR FINANCIAL INSTITUTIONS.

(a) GENERAL RULE.—

(1) REORGANIZATIONS.—Subparagraph (D) of section 368(a)(3) of the Internal Revenue Code of 1986 (as amended by section 4012 of the Technical and Miscellaneous Revenue Act of 1988) is amended to read as follows: 26 USC 368.

"(D) AGENCY RECEIVERSHIP PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution referred to in section 581 or 591, the agency shall be treated as a court."

(2) NET OPERATING LOSS RULES.—The last sentence of section 382(l)(5)(F) of such Code (as so amended) is amended by striking "after December 31, 1989" and inserting "on or after May 10, 1989". 26 USC 382.

(3) FINANCIAL ASSISTANCE.—

(A) Section 597 of such Code (as so amended) is amended to read as follows:

26 USC 597.

"SEC. 597. TREATMENT OF TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED.

"(a) GENERAL RULE.—The treatment for purposes of this chapter of any transaction in which Federal financial assistance is provided with respect to a bank or domestic building and loan association shall be determined under regulations prescribed by the Secretary.

"(b) Principles Used in Prescribing Regulations.—

"(1) Treatment of taxable asset acquisitions.—In the case of any acquisition of assets to which section 381(a) does not apply, the regulations prescribed under subsection (a) shall—

"(A) provide that Federal financial assistance shall be properly taken into account by the institution from which the assets were acquired, and

"(B) provide the proper method of allocating basis among the assets so acquired (including rights to receive Federal financial assistance).

"(2) Other transactions.—In the case of any transaction not described in paragraph (1), the regulations prescribed under subsection (a) shall provide for the proper treatment of Federal financial assistance and appropriate adjustments to basis or other tax attributes to reflect such treatment.

"(3) Denial of double benefit.—No regulations prescribed under this section shall permit the utilization of any deduction (or other tax benefit) if such amount was in effect reimbursed by nontaxable Federal financial assistance.

"(c) Federal Financial Assistance.—The purposes of this section, the term 'Federal financial assistance' means—

"(1) any money or other property provided with respect to a domestic building and loan association by the Federal Savings and Loan Insurance Corporation or the Resolution Trust Corporation pursuant to section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any other similar provision of law), and

"(2) any money or other property provided with respect to a bank or domestic building and loan association by the Federal Deposit Insurance Corporation pursuant to section 11(f) or 13(c) of the Federal Deposit Insurance Act (or under any other similar provision of law),

regardless of whether any note or other instrument is issued in exchange therefor.

"(d) Domestic Building and Loan Association.—For purposes of this section, the term 'domestic building and loan association' has the meaning given such term by section 7701(a)(19) without regard to subparagraph (C) thereof."

(B) Subparagraph (B) of section 904(c)(2) of the Tax Reform Act of 1986 is hereby repealed. 26 USC 597 note.

(C) The table of sections for part II of subchapter H of chapter 1 of such Code is amended by striking the item relating to section 597 and inserting the following:

"Sec. 597. Treatment of transactions in which Federal financial assistance provided."

(b) Technical Amendments.—

(1) Section 904 of the Tax Reform Act of 1986 (other than subsection (c)(2)(B) thereof) is hereby repealed and the Internal Revenue Code of 1986 shall be applied as if the amendments made by such section had not been enacted. 26 USC 597 note.

(2) The last sentence of paragraph (3) of section 4012(c) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as follows: 26 USC 597 note.

"In the case of any bank or any institution treated as a domestic building and loan association for purposes of section 597 of the 1986 Code by reason of the amendment made by subsection (b)(2)(B), the amendments made by this subsection shall also apply to any transfer before January 1, 1989, to which the amendments made by subsection (b)(2) apply."

26 USC 593.

(3) The last sentence of section 593(e)(1) of such Code is amended to read as follows: "This paragraph shall not apply to any transaction to which section 381 applies, or to any distribution to the Federal Savings and Loan Insurance Corporation (or any successor thereof) or the Federal Deposit Insurance Corporation in redemption of an interest in an association, if such interest was originally received by any such entity in exchange for assistance provided under a provision of law referred to in section 597(c).".

(c) Effective Dates.—

26 USC 368 note.

(1) Subsection (a)(1).—The amendment made by subsection (a)(1) shall apply to acquisitions on or after May 10, 1989.

26 USC 382 note.

(2) Subsection (a)(2).—The amendment made by subsection (a)(2) shall apply to transactions on or after May 10, 1989.

26 USC 597 note.

(3) Subsection (a)(3).—

(A) In general.—The amendments made by subsection (a)(3) shall apply to any amount received or accrued by the financial institution on or after May 10, 1989, except that such amendments shall not apply to transfers on or after such date pursuant to an acquisition to which the amendment made by subsection (a)(1) does not apply.

(B) Interim rule.—In the case of any payment pursuant to a transaction on or after May 10, 1989, and before the date on which the Secretary of the Treasury (or his delegate) takes action in exercise of his regulatory authority under section 597 of the Internal Revenue Code of 1986 (as amended by subsection (a)(3)), the taxpayer may rely on the legislative history for the amendments made by subsection (a)(3) in determining the proper treatment of such payment.

26 USC 597 note.

(4) Subsection (b)(1).—The provisions of subsection (b)(1) shall take effect on the date of the enactment of the Tax Reform Act of 1986.

26 USC 597 note.

(5) Subsection (b)(2).—The amendment made by subsection (b)(2) shall take effect on the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988.

26 USC 593 note.

(6) Subsection (b)(3).—The amendment made by subsection (b)(3) shall take effect on the date of the enactment of this Act.

26 USC 597 note.

(7) Clarification of prior law.—Any reference to the Federal Savings and Loan Insurance Corporation in section 597 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) shall be treated as including a reference to the Resolution Trust Corporation and the FSLIC Resolution Fund.

SEC. 1402. TAX EXEMPTION FOR RESOLUTION TRUST CORPORATION AND RESOLUTION FUNDING CORPORATION.

26 USC 501.

(a) General Rule.—Subsection (l) of section 501 of the Internal Revenue Code of 1986 (relating to government corporations exempt under subsection (c)(1)) is amended to read as follows:

"(l) Government Corporations Exempt Under Subsection (c)(1).—For purposes of subsection (c)(1), the following organizations are described in this subsection:

"(1) The Central Liquidity Facility established under title III of the Federal Credit Union Act (12 U.S.C. 1795 et seq.).

"(2) The Resolution Trust Corporation established under section 21A of the Federal Home Loan Bank Act.

"(3) The Resolution Funding Corporation established under section 21B of the Federal Home Loan Bank Act."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 501 note.

SEC. 1403. ANNUAL REPORTS ON TRANSACTIONS IN WHICH FEDERAL FINANCIAL ASSISTANCE PROVIDED.

26 USC 597 note.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall submit to the Senate and to the Committee on Ways and Means of the House of Representatives annual reports on—

(1)(A) the transactions which occur during the year for which the report is made and with respect to which Federal financial assistance is provided;

(B) the aggregate amount of Federal financial assistance provided with respect to such transactions; and

(C) any tax benefits available by reason of such transactions; and

(2) the aggregate amount of Federal financial assistance provided during such year, and the aggregate tax benefits utilized during such year, which are attributable to such transactions in prior years.

(b) DEFINITION.—For purposes of this section, the term "Federal financial assistance" means any assistance to which section 597 of the Internal Revenue Code of 1986 applies.

SEC. 1404. STUDIES OF RELATIONSHIP BETWEEN PUBLIC DEBT AND ACTIVITIES OF GOVERNMENT-SPONSORED ENTERPRISES.

12 USC 1811 note.

(a) IN GENERAL.—In order to better manage the bonded indebtedness of the United States, the Secretary shall conduct 2 annual studies to assess the financial safety and soundness of the activities of all Government-sponsored enterprises and the impact of their operations on Federal borrowing.

(b) ACCESS TO RELEVANT INFORMATION.— Records.

(1) INFORMATION FROM GSE'S.—Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(2) INFORMATION FROM SUPERVISORY AGENCIES.—In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(3) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this subsection in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(B) EXEMPTION FROM PUBLIC DISCLOSURE REQUIREMENTS.—The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A).

(C) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(i) by virtue of his employment or official position, he has possession of or access to any book, record, or information made available under this subsection and determined by the Secretary to be confidential under subparagraph (A); and

(ii) he discloses the material in any manner other than—

(I) to an officer or employee of the Department of the Treasury; or

(II) pursuant to the exceptions set forth in such section 1906.

(c) ASSESSMENT OF RISK.—In assessing the financial safety and soundness of the activities of Government-sponsored enterprises, and the impact of their activities on Federal borrowing, the Secretary shall quantify the risks associated with each Government-sponsored enterprise. In quantifying such risks, the Secretary shall determine the volume and type of securities outstanding which are issued or guaranteed by each Government-sponsored enterprise, the capitalization of each Government-sponsored enterprise, and the degree of risk involved in the operations of each Government-sponsored enterprise due to factors such as credit risk, interest rate risk, management and operations risk, and business risk. The Secretary shall also report on the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of Government-sponsored enterprises and the financial risk associated with such activities.

Reports.

(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress—

(1) by May 15, 1990, a report setting forth the results of the 1st annual study conducted under this section; and

(2) by May 15, 1991, a report setting forth the results of the 2nd annual study conducted under this section.

(e) DEFINITIONS.—For purposes of this section:

(1) GOVERNMENT-SPONSORED ENTERPRISE.—The term "Government-sponsored enterprise" means—

(A) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the Student Loan Marketing Association, the College

Construction Loan Insurance Association, and any of their affiliated or member institutions; and

(B) any other Government-sponsored enterprise, as designated by the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

Approved August 9, 1989.

LEGISLATIVE HISTORY—H.R. 1278 (S. 774):

HOUSE REPORTS: No. 101-54, Pt. 1 (Comm. on Banking, Finance and Urban Affairs); Pt. 2 (Comm. on Ways and Means); Pt. 3 (Comm. on Banking, Finance and Urban Affairs); Pt. 4 (Comm. on Rules); Pt. 5 (Comm. on the Judiciary); Pt. 6 (Comm. on Government Operations); and Pt. 7 (Comm. on Banking, Finance and Urban Affairs) and No. 101-209 (Comm. of Conference).

SENATE REPORTS: No. 101-19 accompanying S. 774 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 135 (1989):

Apr. 17-19, S. 774 considered and passed Senate.

June 14, 15, H.R. 1278 considered and passed House.

June 21, considered and passed Senate, amended.

June 22, House disagreed to Senate amendment.

Aug. 3, Senate insisted on its amendment. House insisted on its disagreement to Senate amendment.

Aug. 4, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):

Aug. 9, Presidential remarks.

○

Public Law 101-74
101st Congress

Joint Resolution

Aug. 9, 1989
[H.J. Res. 281]

To approve the designation of the Cordell Bank National Marine Sanctuary, to disapprove a term of that designation, to prohibit the exploration for, or the development or production of, oil, gas, or minerals in any area of that sanctuary, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves the national marine sanctuary designation entitled "Designation Document for Cordell Bank National Marine Sanctuary" that was submitted to Congress by the Secretary of Commerce on May 24, 1989, but disapproves the following terms of such designation: Designation of hydrocarbon (oil and gas) activities as activities which may be regulated within the Sanctuary and adjacent waters under article 4, section 1.c. of the final designation document for the Sanctuary.

SEC. 2. PROHIBITION OF EXPLORATION, DEVELOPMENT, OR PRODUCTION OF OIL, NATURAL GAS, OR MINERALS IN SANCTUARY.

(a) PROHIBITION.—Notwithstanding any other provision of law, the exploration for, or the development or production of, oil, gas, or minerals in any area of the Cordell Bank National Marine Sanctuary established by the designation referred to in the first section is prohibited.

(b) ISSUANCE OF REGULATIONS.—Not later than 120 days after the date on which this joint resolution becomes law, the Secretary of Commerce shall revise the regulations issued by the Secretary governing prohibited activities in the Cordell Bank National Marine Sanctuary (15 CFR 942.6) to implement the prohibition established by subsection (a).

Approved August 9, 1989.

LEGISLATIVE HISTORY—H.J. Res. 281:

HOUSE REPORTS: No. 101-110 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
July 24, considered and passed Senate, amended.
July 25, House concurred in Senate amendment.

○

Public Law 101-75
101st Congress

Joint Resolution

Designating August 8, 1989, as "National Neighborhood Crime Watch Day".

Aug. 10, 1989
[S.J. Res. 136]

Whereas neighborhood crime is of continuing concern to the American people;
Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;
Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;
Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent their communities from becoming markets for drug dealers;
Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 10 o'clock post-meridian on August 8, 1989, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 8, 1989, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved August 10, 1989.

LEGISLATIVE HISTORY—S.J. Res. 136:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 4, considered and passed House.

○

Public Law 101-76
101st Congress

An Act

Aug. 11, 1989
[H.R. 2705]

Relating to the method by which Government contributions to the Federal employees health benefits program shall be computed for 1990 or 1991 if no Government-wide indemnity benefit plan participates in that year.

5 USC 8906 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) in the administration of chapter 89 of title 5, United States Code, for contract year 1990 or 1991, in order to compute the average subscription charges under section 8906(a) of such title for such contract years, the subscription charges in effect for the indemnity benefit plan on the beginning date of each such contract year shall be deemed to be the subscription charges which—

(A) were in effect for such plan on the beginning date of the preceding contract year as adjusted under paragraph (2); or

(B) if subparagraph (A) does not apply, were deemed under this Act to have been in effect for such plan with respect to the preceding contract year as adjusted under paragraph (2).

(2) The subscription charges under paragraph (1) shall be increased or decreased (as appropriate) by the average percentage by which the respective subscription charges taken into account under paragraphs (1), (3), and (4) of such section 8906(a) for that contract year increased or decreased from the subscription charges taken into account under such paragraphs (1), (3), and (4) for the preceding contract year.

(b) Separate percentages shall be computed under subsection (a)(2) with respect to enrollments for self alone and enrollments for self and family, respectively.

(c) The provisions of this Act shall not apply to contract year 1991, if comprehensive reform legislation is enacted to amend section 8906 of title 5, United States Code, and such amendment is required to be implemented by the commencement of negotiations pertaining to rates and benefits for such contract year.

(d) Any reference in this Act to a "contract year" shall be considered to be a reference to a contract year under chapter 89 of title 5, United States Code.

(e) No later than 180 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall

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transmit recommendations to the Congress for comprehensive reform of the Federal Employee Health Benefits Program.

Approved August 11, 1989.

LEGISLATIVE HISTORY—H.R. 2705 (S. 1276):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
July 31, considered and passed Senate, amended.
Aug. 1, House concurred in Senate amendments.

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Public Law 101-77
101st Congress

Joint Resolution

Aug. 11, 1989
[H.J. Res. 363]

To designate 1989 as "United States Customs Service 200th Anniversary Year".

Whereas July 31, 1989, marks the 200th anniversary of the signing by President George Washington of legislation establishing the United States Customs Service;

Whereas the controls on imports and exports and on shipping and trade, deemed essential by the founders of the Republic would have been impossible without implementation by an honest, resourceful, and efficient Customs Service;

Whereas the Collector of Customs, the Customs House, and the Customs officer have stood for 200 years as the symbols of Federal authority in the ports and on the waterfronts;

Whereas after 200 years the ever more complex demands of our economy and our civilization require the Customs Service of the Department of the Treasury to remain alert and ready to perform on short notice a widening variety of tasks;

Whereas the men and women of the United States Customs Service have been the first line of defense against the entry into the United States of illicit drugs and other contraband goods;

Whereas the United States Customs Service has protected the economic well-being of the Nation against predatory trade practices and violation of intellectual property rights;

Whereas the United States Customs Service is one of the oldest of the Federal agencies, having been created by the 5th Act of the 1st Congress; and

Whereas the United States Customs Service was the source of the creation of many Federal agencies, is the principal United States border agency, and enforces all laws of the United States at our border: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1989 is designated as "United States Customs Service 200th Anniversary Year", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the year with appropriate ceremonies and activities.

Approved August 11, 1989.

LEGISLATIVE HISTORY—H.J. Res. 363:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 19, considered and passed House.
July 27, considered and passed Senate.

○

Public Law 101-78
101st Congress

Joint Resolution

Aug. 11, 1989
[S.J. Res. 78]

To designate the month of November 1989 and 1990 as "National Hospice Month".

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity;
Whereas hospice advocates care for the patient and family by attending to their physical, emotional, and spiritual needs and specifically, the pain and grief they experience;
Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and community volunteers trained in the hospice concept of care;
Whereas hospice is becoming a full partner in the Nation's health care system;
Whereas the enactment of a permanent medicare hospice benefit and an optional medicaid hospice benefit makes it possible for many more Americans to have the opportunity to elect to receive hospice care;
Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and
Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November in 1989 and 1990 is designated as "National Hospice Month". The President is requested to issue a proclamation calling upon all government agencies, the health care community, appropriate private organizations, and people of the United States to observe each of those months with appropriate forums, programs and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country.

Approved August 11, 1989.

LEGISLATIVE HISTORY—S.J. Res. 78:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 4, considered and passed House.

○

Public Law 101-79
101st Congress

Joint Resolution

Aug. 11, 1989
[S.J. Res. 126]

Commemorating the bicentennial of the United States Coast Guard.

Whereas August 4, 1990, marks the 200th anniversary of the Act of August 4, 1790, by which Congress authorized 10 revenue cutters requested by Alexander Hamilton for the purpose of interdicting violators of the customs laws;

Whereas the seagoing service which began with those first 10 cutters lives on in the form of the service now known as the "United States Coast Guard";

Whereas the Coast Guard has served this Nation well, in war and peace, in both the defense of this Nation against foreign enemies and against the use of the sea for crimes against the Nation;

Whereas the Coast Guard has also served this Nation well in protecting against the perils of the sea, by rescuing those in danger at sea, maintaining aids to navigation, and regulating the safety of vessels;

Whereas the Coast Guard, despite its small size, has served the Nation in these and in many other areas with efficiency and gallantry;

Whereas the Coast Guard's present-day battle against the importation of drugs by sea reminds us of the origins of the Coast Guard with those first 10 cutters 200 years ago, and of the other essential services performed by the Coast Guard; and

Whereas the bicentennial of the Coast Guard will be commemorated during the period beginning August 4, 1989, and ending August 4, 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States hereby gives recognition to the two centuries of service by the United States Coast Guard and authorizes and requests the President to issue a proclamation calling upon the people of the Nation to share in the pride and satisfaction enjoyed by the dedicated and committed members of the United States Coast Guard during the commemoration of this bicentennial.

Approved August 11, 1989.

LEGISLATIVE HISTORY—S.J. Res. 126:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 3, considered and passed House.

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Public Law 101-80
101st Congress

Joint Resolution

Designating Labor Day weekend, September 2 through 4, 1989, as "National Drive for Life Weekend".

Aug. 11, 1989
[S.J. Res. 127]

Whereas drunk driving is the most frequently committed crime in the United States, with arrests for driving while intoxicated totaling more than three times the number of arrests for all violent crimes combined;

Whereas one individual in the United States was killed every twenty-two minutes in a drunk-driving-related crash in 1988, an average of sixty-five individuals each day;

Whereas more than twenty-three thousand individuals were killed in the United States in drunk-driving-related crashes in 1988;

Whereas two out of every five individuals in the United States will be involved in a drunk-driving-related crash at some point in their lives;

Whereas the estimates of the economic costs of drunk driving in the United States are as high as $24 billion;

Whereas Drive for Life is a public awareness campaign which asks all Americans to pledge to be responsible by driving sober on the Drive for Life Day and thereby demonstrate a commitment to reduce significantly the tragedies of drunk driving, and which serves to educate the public about the dangers of drunk driving;

Whereas Americans are also asked to turn on their headlights while driving on Drive for Life Day as a remembrance of those killed by drunk driving;

Whereas on the second annual National Drive for Life Day, the toll of individuals killed in drunk-driving-related crashes in the United States was 28.6 per centum lower than the number of deaths due to drunk-driving-related crashes on Labor Day weekend Saturday, in 1987, reflecting the success of this campaign;

Whereas the second annual National Drive for Life campaign featured endorsements from all fifty Governors, more than two hundred and seventy-five mayors, and all fifty State police departments;

Whereas the third annual National Drive for Life Day will occur on September 2, 1989, the Saturday of the Labor Day weekend, when drunk-driving-related crashes are traditionally at their peak: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Labor Day weekend beginning on September 2, 1989, is designated as "National Drive for Life Weekend". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that weekend with a pledge to be responsible by driving sober and encouraging others to do the same.

Approved August 11, 1989.

LEGISLATIVE HISTORY—S.J. Res. 127:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed Senate.
Aug. 4, considered and passed House.

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Public Law 101-81
101st Congress

An Act

To amend the Agricultural Act of 1949 for the 1990 crops to allow the planting of alternative crops on permitted acreage and to amend the provisions regarding the designation of farm acreage base as acreage base established for oats.

Aug. 14, 1989
[H.R. 2799]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PLANTING OF ALTERNATIVE CROPS ON PERMITTED ACREAGE.

Effective only for the 1990 crops, section 504(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1464(b)(2)) is amended by—

(1) striking "and" at the end of subparagraph (D);

(2) redesignating subparagraph (E) as subparagraph (F); and

(3) inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of the 1990 crop year, acreage in an amount not to exceed 20 percent of the permitted acreage for a program crop, if—

"(i) the acreage considered to be planted is planted to canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkweed, or meadowfoam;

"(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

"(iii) payments are not received by producers under section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and".

SEC. 2. OATS.

Effective only for the 1990 crops, section 503(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1463(c)(1)) is amended by striking "if the acreage limitation percentage established for a crop of feed grains under section 105C(f) is 12.5 percent or less,".

Approved August 14, 1989.

LEGISLATIVE HISTORY—H.R. 2799:

HOUSE REPORTS: No. 101-147 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 17, considered and passed House.
Aug. 2, considered and passed Senate.

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29-139 (81) O - 89

PUBLIC LAW 101-82—AUG. 14, 1989

DISASTER ASSISTANCE ACT OF 1989

29-139 O - 89 (82)

Public Law 101-82
101st Congress

An Act

Aug. 14, 1989
[H.R. 2467]

To provide disaster assistance to agricultural producers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Disaster Assistance Act of 1989.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

7 USC 1421 note.

(a) Short Title.—This Act may be cited as the "Disaster Assistance Act of 1989".

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY CROP LOSS ASSISTANCE

Subtitle A—Annual Crops

Sec. 101. Payments to program participants for target price commodities.
Sec. 102. Payments to program nonparticipants for target price commodities.
Sec. 103. Peanuts, sugar, and tobacco.
Sec. 104. Soybeans and nonprogram crops.
Sec. 105. Crop quality reduction disaster payments.
Sec. 106. Effect of Federal crop insurance payments.
Sec. 107. Crop insurance coverage for the 1990 crops.
Sec. 108. Crops harvested for forage uses.
Sec. 109. Payment limitations.
Sec. 110. No double payments on replanted acreage.
Sec. 111. Substitution of crop insurance program yields.
Sec. 112. Definitions.

Subtitle B—Orchards

Sec. 121. Eligibility.
Sec. 122. Assistance.
Sec. 123. Limitation on assistance.
Sec. 124. Definition.
Sec. 125. Duplicative payments.
Sec. 126. Sense of Congress on crop insurance for orchard crops.

Subtitle C—Forest Crops

Sec. 131. Eligibility.
Sec. 132. Assistance.
Sec. 133. Limitation on assistance.
Sec. 134. Definition.
Sec. 135. Duplicative payments.

Subtitle D—Additional Assistance

Sec. 141. New conservation measures.
Sec. 142. Assistance for ponds.

Subtitle E—Administrative Provisions

Sec. 151. Ineligibility.
Sec. 152. Timing and manner of assistance.
Sec. 153. Commodity Credit Corporation.
Sec. 154. Limitation on outlays.
Sec. 155. Regulations.

TITLE II—EMERGENCY LIVESTOCK ASSISTANCE

Sec. 201. Use of stored grain for assistance.
Sec. 202. Livestock transportation assistance.
Sec. 203. Livestock water development projects.
Sec. 204. Animal unit methodology study and report.

TITLE III—DISASTER CREDIT AND FORBEARANCE

Sec. 301. Emergency loans.
Sec. 302. 1990 farm operating loans.
Sec. 303. FmHA loans made to Indian tribes.

TITLE IV—RURAL BUSINESSES

Sec. 401. Disaster assistance for rural business enterprises.

TITLE V—WATER-RELATED ASSISTANCE

Sec. 501. Emergency community water assistance grant program.
Sec. 502. Livestock water assistance.
Sec. 503. Disaster assistance for watershed protection activities.

TITLE VI—GENERAL PROVISIONS

Sec. 601. Shrinkage allowance for peanuts.
Sec. 602. Advanced deficiency repayment deadline for 1988 crops.
Sec. 603. Planting of alternate crops on permitted acreage.
Sec. 604. Crop insurance yield coverage.

TITLE I—EMERGENCY CROP LOSS ASSISTANCE

7 USC 1421 note.

Subtitle A—Annual Crops

SEC. 101. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) Disaster Payments.—

(1) In general.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act, 35 percent) for the crop.

(2) Limitations.—

(A) Acreage in excess of permitted acreage.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(B) Crop insurance.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

(3) Reduction in deficiency payments.—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

(4) Election of payments.—

(A) Application of paragraph.—This paragraph shall apply, effective only for the 1989 crops of wheat, feed grains, upland cotton, and rice, to producers on a farm who—

(i)(I) had failed wheat, feed grain, upland cotton, or rice acreage; or

(II) were prevented from planting acreage to such commodity because of damaging weather or related condition in 1988 or 1989; and

(ii) elected to devote all or a portion of such acreage to conservation or other uses in accordance with section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3(c)(1)(C), 1444e(c)(1)(B), 1444–1(c)(1)(B), or 1441–1(c)(1)(B)).

(B) Election.—The Secretary shall (within 30 days after the date of enactment of this Act) permit producers referred to in subparagraph (A) to elect whether to receive disaster payments in accordance with this section in lieu of payments under the sections referred to in subparagraph (A)(ii).

(b) Advance Deficiency Payments.—

(1) Application of subsection.—This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1989 crop of wheat, feed grains, upland cotton, or rice.

(2) Forgiveness of refund requirement.—

(A) In general.—Subject to subparagraph (B), if because of damaging weather or related condition in 1988 or 1989 the total quantity of the 1989 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop (hereinafter in this section referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b–2) with respect to that portion of the deficiency in production that does not exceed—

(i) in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

(ii) in the case of other producers, 40 percent of the qualifying amount.

(B) Crop insurance.—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

(3) Election for nonrecipients.—The Secretary shall allow producers on a farm who elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1989 crop under section 107C of the Agricultural Act of 1949, to elect (within 30 days after the date of the enactment of this Act) whether to receive such advance deficiency payments.

(4) Date of refund for payments.—Effective only for the 1989 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refund shall not be required prior to July 31, 1990, for that portion of the crop for which a disaster payment is made under subsection (a).

SEC. 102. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) Disaster Payments.—

(1) In general.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 50 percent of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) Payment rate.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 50 percent for the crop.

(b) Prevented Planting Credit.—

(1) In general.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary.

(2) Maximum acreage.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1988 minus acreage actually planted to the commodity for harvest in 1989; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

(3) Adjustments.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) Limitations.—

(1) Acreage limitation program.—The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agricultural Act of 1949.

Contracts.

(2) Crop insurance.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

SEC. 103. PEANUTS, SUGAR, AND TOBACCO.

(a) Disaster Payments.—

(1) In general.—Effective only for the 1989 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) Payment rate.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

(A) in the case of producers who obtained crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act—

(i) 35 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for 1989; and

(B) in the case of producers who did not obtain crop insurance for the 1989 crop of the commodity under the Federal Crop Insurance Act—

(i) 40 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 40 percent of the farm's effective marketing quota for 1989.

(3) Payment level.—For purposes of paragraph (1), the payment level for a commodity shall be equal to—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 104(a)(2); and

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1989 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1989 price support levels.

(b) Prevented Planting Credit.—

(1) In general.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary.

(2) Maximum acreage.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1988 minus acreage actually planted to harvest in 1989; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

(3) Adjustments.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and any change in quotas for the 1989 crops of tobacco.

Contracts.

(c) Limitation.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

(d) Special Rules for Peanuts.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this section shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the quantity of undermarketings of quota peanuts from a farm for the 1989 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

(1) the quantity of undermarketings of quota tobacco from a farm for the 1989 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

SEC. 104. SOYBEANS AND NONPROGRAM CROPS.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—

(A) ELIGIBILITY.—Effective only for the 1989 crops of soybeans and nonprogram crops, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that the producers on a farm are able to harvest is less than—

(i) with respect to soybeans and sunflowers, the result of multiplying 55 percent of the State, area, or county yield, adjusted for adverse weather conditions during the 1986, 1987, and 1988 crop years, as determined by the Secretary, for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b);

(ii) with respect to nonprogram crops (other than as provided in clauses (i) and (iii)), the result of multiplying 50 percent of the yield established by the Commodity Credit Corporation under subsection (d)(2) for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b); and

(iii) with respect to crops covered in section 201(b) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)), 50 percent of the historical annual yield of the producers for such crops, as determined by the Secretary,

the Secretary shall make a disaster payment available to such producers.

(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 45 percent for soybeans and sunflowers (50 percent for other nonprogram crops) for the crop.

(2) Payment level.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3) Calculation of payments for different varieties.—

Regulations.

(A) Crop-by-crop basis.—The Secretary shall make disaster payments under this subsection on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

(B) Different varieties.—For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

(4) Exclusions from harvested quantities.—For purposes of determining the total quantity of the 1989 nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall exclude at least 70 percent of—

(A) commodities that cannot be sold in normal commercial channels of trade; and

(B) dockage, including husks and shells, if such dockage is excluded in determining yields under subsection (d)(2).

(b) Prevented Planting Credit.—

(1) In general.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary.

(2) Maximum acreage.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1988 minus acreage actually planted for harvest in 1989; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989.

(3) Adjustments.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

Contracts.

(c) Limitation.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

(d) Special Rules for Nonprogram Crops.—

(1) DEFINITION OF NONPROGRAM CROP.—As used in this section, the term "nonprogram crop" means all crops for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1989, and other commercial crops (including sweet potatoes) for which such insurance was not available for crop year 1989, except that such term shall not include a crop covered under section 101, 102, or 103, soybeans, or sunflowers.

(2) FARM YIELDS.—

(A) ESTABLISHMENT.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

(B) PROVEN YIELDS AVAILABLE.—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for the farm shall be based on such proven yields.

(C) PROVEN YIELDS NOT AVAILABLE.—If such data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

(D) COUNTY AVERAGE YIELDS.—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

(3) RESPONSIBILITY OF PRODUCERS.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of 1989 crop losses resulting from damaging weather or related condition in 1988 or 1989 in order for such producers to obtain disaster payments under this section.

SEC. 105. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) IN GENERAL.—To ensure that all producers of 1989 crops covered under sections 101 through 104 are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by damaging weather or related condition in 1988 or 1989, as determined by the Secretary.

(b) ELIGIBLE PRODUCERS.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 45 percent and not more than 75 percent for such crop (as determined under section 101, 102, 103, or 104, as appropriate).

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 101;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 102;

(3) the payment level under section 103(a)(3), for commodities covered by section 103; and

(4) the payment level under section 104(a)(2), for commodities covered under section 104.

(d) Determination of Payment.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1988 or 1989, as determined by the Secretary.

SEC. 106. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1989 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this subtitle for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this subtitle for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this subtitle for such crop; by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 101, the eligible acreage established under sections 101(a)(1) and 101(a)(2)(A)); by

(3)(A) in the case of producers who participated in a production adjustment program for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1989 crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1989 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 103(a)(3); and

(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 104(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

SEC. 107. CROP INSURANCE COVERAGE FOR THE 1990 CROPS.

(a) Requirement.—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this subtitle, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition in 1988 or 1989, or forgiveness of the repayment of advance deficiency payments under section 101(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1990 crop of the commodity for which such payments, loans, or forgiveness are sought.

(b) LIMITATIONS.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless such producers' deficiency in production, with respect to the crop for which a disaster payment under this subtitle otherwise may be made, exceeds 65 percent;

(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1989 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

(c) IMPLEMENTATION.—

(1) COUNTY COMMITTEES.—The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 101 through 105 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

(2) OTHER SOURCES.—Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

Regulations.

(3) COMMISSIONS.—The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

(d) REPAYMENT OF BENEFITS.—Notwithstanding any other provision of law, if (prior to the end of the 1990 crop year for the commodity involved) the crop insurance coverage required of the producer under this section is canceled by the producer, the producer—

(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

SEC. 108. CROPS HARVESTED FOR FORAGE USES.

Not later than 15 days after the date of the enactment of this Act, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish a 1989 yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 109. PAYMENT LIMITATIONS.

(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this subtitle may not exceed $100,000.

(b) NO DOUBLE BENEFITS.—No person may receive disaster payments under this subtitle to the extent that such person receives a livestock emergency benefit for lost feed production in 1989 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d). Animals.

(c) COMBINED LIMITATION.—

(1) IN GENERAL.—No person may receive any payment under this subtitle or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1989 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000.

(2) ELECTION.—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g)) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this section and section 151, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

(a) REDUCTION OF DISASTER PAYMENTS.—Effective only for producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary of Agriculture shall reduce such payments by an amount that reflects the value of any crop such producers plant for harvest in 1989 to replace the crop for which disaster payments are received.

(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1988 or

1989) the second crop is planted on acreage on which the producers planted, or were prevented from planting, the first crop.

(c) ADMINISTRATION.—In carrying out this section, the Secretary shall—

(1) determine the value of the second crop based on the actual yield of the producers and average market prices for the second crop during a representative period; and

(2) take into account the historical cropping patterns of producers.

SEC. 111. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Agriculture may permit each eligible producer (as defined in subsection (d)) of a 1989 crop of a commodity who has obtained multiperil crop insurance for such crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1988 crop of such commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this subtitle, for the purposes of determining such producer's eligibility for a disaster payment on the 1989 crop under this subtitle and the amount of such payment.

(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for such producer's 1989 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on such crop under this subtitle shall be adjusted as provided in paragraph (2).

(2) AMOUNT.—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this subtitle shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this subtitle using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this subtitle.

(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—A producer may use the crop insurance yield for the producer's 1988 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer's 1989 crop of the commodity.

(d) DEFINITION OF ELIGIBLE PRODUCER.—For purposes of this section, the term "eligible producer" means a producer of the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

SEC. 112. DEFINITIONS.

As used in this subtitle:

(1) DAMAGING WEATHER.—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, or excessive wind, or any combination thereof.

(2) RELATED CONDITION.—The term "related condition" includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

Subtitle B—Orchards

SEC. 121. ELIGIBILITY.

(a) DROUGHT LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 122, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze or related condition in 1989, as determined by the Secretary.

(b) LIMITATION.—An eligible orchardist shall qualify for assistance under subsection (a) only if such orchardist's tree mortality, as a result of the natural disaster, exceeds 45 percent (adjusted for normal mortality).

SEC. 122. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 121 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting trees lost due to freeze or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

SEC. 123. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed $25,000, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this subtitle, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) and the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 124. DEFINITION.

As used in this subtitle, the term "eligible orchardist" means a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees.

SEC. 125. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subtitle and the forestry incentives program, agricultural conservation program, or other Federal program.

SEC. 126. SENSE OF CONGRESS ON CROP INSURANCE FOR ORCHARD CROPS.

It is the sense of Congress that the Secretary of Agriculture should expeditiously expand the availability of multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to all orchard crops.

Subtitle C—Forest Crops

SEC. 131. ELIGIBILITY.

(a) Drought Loss.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 132, to eligible tree farmers that planted tree seedlings in 1988 or 1989 for commercial purposes but lost such seedlings as a result of drought or related condition in 1989, as determined by the Secretary.

(b) Limitation.—An eligible tree farmer shall qualify for assistance under subsection (a) only if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 45 percent (adjusted for normal mortality).

SEC. 132. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 131 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought or related conditions in 1989 in excess of 45 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

SEC. 133. LIMITATION ON ASSISTANCE.

(a) Limitation.—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed $25,000, or an equivalent value in tree seedlings.

(b) Regulations.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this subtitle, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 and the Disaster Assistance Act of 1988; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 134. DEFINITION.

As used in this subtitle, the term "eligible tree farmer" means a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of such trees.

SEC. 135. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subtitle and the forestry incentives program, agricultural conservation program, or other Federal program.

Subtitle D—Additional Assistance

SEC. 141. NEW CONSERVATION MEASURES.

(a) IN GENERAL.—

(1) HAYING AND GRAZING ON CRP ACREAGE.—In the case of an owner or operator of land who has entered into a conservation reserve program contract under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) and hays or grazes livestock during the 1989 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, the Secretary may not reduce the amount of rental payments made to such owner or operator as the result of such haying or grazing to the extent that the owner or operator— Animals. Contracts.

(A) carries out additional conservation practices, approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies, to enhance soil, water, and wildlife conservation on or in the vicinity of lands subject to such contract; and

(B) pays the costs of carrying out such practices.

(2) AMOUNT OF REDUCTION.—The amount of the reduction prohibited under paragraph (1) shall equal one-half of the amount paid by the owner or operator to cover the costs of carrying out the conservation practices.

(b) CONSERVATION PRACTICES.—For purposes of subsection (a), the term "conservation practices" includes—

(1) establishment of permanent shelterbelts and windbreaks;

(2) restoration of wetlands;

(3) establishment of wildlife food plots; or

(4) planting of trees.

SEC. 142. ASSISTANCE FOR PONDS.

Section 607(b)(2)(B) of the Agricultural Act of 1949 (7 U.S.C. 1471e(b)(2)(B)) is amended by inserting "or ponds" after "wells".

Subtitle E—Administrative Provisions

SEC. 151. INELIGIBILITY.

(a) GENERAL RULE.—A person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this title.

(b) QUALIFYING GROSS REVENUES.—For purposes of this section, the term "qualifying gross revenues" means—

(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

SEC. 152. TIMING AND MANNER OF ASSISTANCE.

(a) TIMING OF ASSISTANCE.—

(1) IN GENERAL.—

(A) ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.—Subject to subparagraph (B), the Secretary of Agriculture shall make full disaster assistance available under this title as soon as practicable after the date of enactment of this Act.

(B) COMPLETED APPLICATION.—Subject to subparagraph (C), no payment or benefit provided under this title shall be payable or due until such time as a completed application for a crop of a commodity therefor has been approved.

(C) APPLICATIONS PRIOR TO SEPTEMBER 30, 1989.—If an application for a disaster payment under this title is received by the Secretary prior to September 30, 1989, by producers who have harvested their 1989 crop, the Secretary shall make full or advance disaster payments to such producers within 15 days after the application is received or by September 15, 1989, whichever is later.

(D) ADVANCE PAYMENTS.—If advance payments are made to producers under subparagraph (C), such payments shall not be less than 80 percent of the payments that will be made available to such producers under this title.

(2) DEADLINE FOR APPLICATION.—To be eligible to receive payments under subtitle A, a person shall make application for such payments not later than March 31, 1990, or such later date that the Secretary, by regulation, may prescribe.

(b) MANNER.—The Secretary may make payments available under subtitle A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 153. COMMODITY CREDIT CORPORATION.

(a) USE.—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title.

(b) EXISTING AUTHORITY.—The authority provided by this title shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

SEC. 154. LIMITATION ON OUTLAYS.

(a) MAXIMUM AMOUNT.—Notwithstanding any other provision of law, if the acreage planted in the United States to the 1989 crop of corn is greater than 73,250,000 acres, the total amount expended for deficiency payments for the 1989 crops of wheat, feed grains, upland cotton, and rice under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) shall not exceed $6,700,000,000.

(b) PRORATION.—The Secretary shall make any reduction required under subsection (a) on a pro rata basis.

SEC. 155. REGULATIONS.

The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this title as soon as practicable after the date of enactment of this Act, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

TITLE II—EMERGENCY LIVESTOCK ASSISTANCE

SEC. 201. USE OF STORED GRAIN FOR ASSISTANCE.

IN GENERAL.—Subsection (b) of section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d(b)) is amended to read as follows:

"(b) If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a), the Secretary—

"(1) may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation; or

"(2) at the option of the livestock producer, shall provide for the furnishing of the feed grain through the use of feed grain stored on the farm of the producer that has been pledged as collateral for a price support loan made under this Act.".

SEC. 202. LIVESTOCK TRANSPORTATION ASSISTANCE.

Section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d) is amended by adding at the end the following new subsection:

"(f) The Secretary may make available at least $25,000,000 to provide livestock transportation assistance under subsection (a)(6) for livestock emergencies in 1989.".

SEC. 203. LIVESTOCK WATER DEVELOPMENT PROJECTS.

Section 607 of the Agricultural Act of 1949 (7 U.S.C. 1471e) is amended by adding at the end the following new subsection:

"(c) The Secretary may make available at least $25,000,000 to provide special assistance under subsection (b)(2) for livestock emergencies in 1988 and 1989.".

SEC. 204. ANIMAL UNIT METHODOLOGY STUDY AND REPORT.

The Secretary of Agriculture shall conduct a study on the methodology and justification of the calculations used to determine the animal unit figure used for purposes of the emergency feed program and the emergency feed assistance program under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d), and report to Congress the results of such study within 90 days of the date of enactment of this Act.

TITLE III—DISASTER CREDIT AND FORBEARANCE

SEC. 301. EMERGENCY LOANS.

7 USC 1961 note.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to a person who otherwise would be eligible for an emergency loan under subtitle C of such Act, if such eligibility is the result of damage to an annual crop planted for harvest in 1989.

7 USC 1941 note.

SEC. 302. 1990 FARM OPERATING LOANS.

(a) Direct Credit.—To the maximum extent practicable, the Secretary of Agriculture shall ensure that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.) for 1990 crop production are made available to farmers and ranchers suffering major losses due to excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989, as authorized under existing law and under regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

(b) Loan Guarantees.—

Real property.
Animals.

(1) In general.—Notwithstanding any other provision of law, the Secretary shall make available in fiscal year 1990 guarantees to commercial or cooperative lenders for loans under subtitle B of the Consolidated Farm and Rural Development Act, to refinance and reamortize 1989 operating loans, or 1989 or 1990 installments due and payable on real estate debt, farm equipment or building (including storage facilities) debt, livestock loans, or other operating debt, of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of excess moisture, freeze, storm, or related condition occurring in 1989 or drought or related condition occurring in 1988 or 1989.

(2) Reamortization.—Each fiscal year 1990 guaranteed loan for 1988 or 1989 natural disaster purposes, as described in paragraph (1), shall contain terms and conditions governing the reamortization of the debt of the farmer or rancher that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit while repaying the guaranteed loan, as determined by the Secretary.

(3) Eligibility.—Notwithstanding any other provision of law, any person eligible to receive payments under subtitle A of title I shall be deemed eligible to have guaranteed, in accordance with this subsection, loans made to such person by a commercial or cooperative lender to refinance installment payments that are or become due and payable during 1989 or 1990, as described in paragraph (1), except that, to be deemed eligible to have such loan guaranteed, the person must otherwise—

(A) be current in the person's obligation to the commercial or cooperative lender that agrees to accept the guarantee in consideration of allowing the person to make the 1989 or 1990 payment or installment over a period of time not to exceed 6 years from the original due date of such payment or installment; and

(B) meet the criteria for guaranteed loan borrowers under subtitle B of the Consolidated Farm and Rural Development Act established by the Secretary.

(c) Use of Agricultural Credit Insurance Fund.—For purposes of providing guaranteed loans in accordance with subsection (b), in addition to funds otherwise available, the Secretary may use any funds available from the Agricultural Credit Insurance Fund during fiscal years 1989 or 1990 for emergency insured and guaranteed loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) to meet the needs resulting from natural disasters, except that funds available from such Fund first shall be used to satisfy the level of assistance estimated by the Secretary to meet the needs of persons eligible for emergency disaster loans.

SEC. 303. FmHA LOANS MADE TO INDIAN TRIBES.

The Act entitled "An Act to provide for loans to Indian tribes and tribal corporations, and for other purposes" (25 U.S.C. 488 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 6. REDUCTION OF UNPAID PRINCIPAL.

25 USC 493.

"(a) In General.—The Secretary of Agriculture may, on the application of the borrower of a loan or loans made under this Act, reduce the unpaid principal balance of such loan or loans to the current fair market value of the land purchased with the proceeds of the loan or loans if—

"(1) the fair market value of the land has declined by at least 25 percent since such land was purchased by the borrower;

"(2) the land has been held by the borrower for a period of at least 5 years; and

"(3) the Secretary of the Interior finds that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

"(b) Fair Market Value.—

"(1) Appraisal.—Current fair market value under subsection (a) shall be determined through an appraisal by an independent qualified fee appraiser, selected by mutual agreement between the borrower and the Secretary of Agriculture.

"(2) Costs.—The cost of appraisals undertaken under paragraph (1) shall be paid by the borrower.

"(c) Appeals.—Decisions of the Secretary of Agriculture under this section shall be appealable in accordance with the provisions of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b).

"(d) Future Applications.—A borrower that had a loan or loans reduced under this section shall not submit an application for another reduction on such loan or loans for a period of 5 years after the initial reduction.".

TITLE IV—RURAL BUSINESSES

SEC. 401. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES.

7 USC 1929a note.

(a) Loan Guarantees.—The Secretary of Agriculture shall guarantee loans made in rural areas to—

(1) public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist such organizations, tribes, or entities in alleviating the distress caused to such organizations, tribes, or entities, directly or indirectly, by the drought, freeze, storm, excessive moisture, or related condition in 1988 or 1989; and Indians.

(2) such organizations, tribes, or entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of such natural disasters in 1988 or 1989.

(b) Eligible Loans.—

(1) In general.—Loans guaranteed under this section shall be loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, insurance company, or other legally organized lending agency.

(2) Production agriculture.—No application for a loan guarantee under this section shall be denied on the basis that such organization, tribe, or entity engages in whole or in part in production agriculture.

(c) Loan Guarantee Limits.—

(1) Percentage of principal and interest.—No guarantee under this section shall exceed 90 percent of the principal and interest amount of the loan or $2,500,000, whichever is the lesser amount.

(2) Total amount.—The total amount of loan guarantee under this section shall not exceed $200,000,000.

(d) Use of the Rural Development Insurance Fund.—The Secretary shall use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) for the purposes of discharging the obligations of the Secretary under this section.

TITLE V—WATER-RELATED ASSISTANCE

SEC. 501. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

(a) Establishment of Program.—Subtitle A of the Consolidated Farm and Rural Development Act is amended by inserting after section 306 (7 U.S.C. 1926) the following new section:

7 USC 1926a.

"SEC. 306A. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

Rural areas.

"(a) In General.—The Secretary shall provide grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

"(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or

"(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy—

"(A) an acute shortage of quality water; or

"(B) a significant decline in the quantity or quality of water that is available.

"(b) Priority.—In carrying out subsection (a), the Secretary shall—

"(1) give priority to projects described in subsection (a)(1); and

"(2) provide at least 70 percent of all such grants to such projects.

"(c) Eligibility.—To be eligible to obtain a grant under this section, an applicant shall—

"(1) be a public or private nonprofit entity; and

"(2) in the case of a grant made under subsection (a)(1), demonstrate to the Secretary that the decline referred to in such subsection occurred within 2 years of the date the application was filed for such grant.

"(d) Uses.—

"(1) IN GENERAL.—Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(2) JOINT PROPOSALS.—Nothing in this section shall preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions contained in subsection (e). Such restrictions should be considered in the aggregate, depending on the number of communities involved.

"(e) RESTRICTIONS.—

Rural areas.

"(1) MAXIMUM POPULATION AND INCOME.—No grant provided under this section shall be used to assist any rural area or community that—

"(A) includes any area in any city or town with a population in excess of 15,000 inhabitants according to the most recent decennial census of the United States; or

"(B) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

"(2) SET-ASIDE FOR SMALLER COMMUNITIES.—Not less than 50 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 5,000 inhabitants.

"(f) MAXIMUM GRANTS.—Grants made under this section may not exceed—

"(1) in the case of each grant made under subsection (a)(1), $500,000; and

"(2) in the case of each grant made under subsection (a)(2), $75,000.

"(g) FULL FUNDING.—Subject to subsection (e), grants under this section shall be made in an amount equal to 100 percent of the costs of the projects conducted under this section.

"(h) APPLICATION.—

"(1) NATIONALLY COMPETITIVE APPLICATION PROCESS.—The Secretary shall develop a nationally competitive application process to award grants under this section. The process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water.

"(2) TIMING.—The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $35,000,000 for each of the fiscal years 1990 and 1991, such sums to remain authorized until fully appropriated.".

(b) IMPLEMENTATION.—

7 USC 1926a note.

(1) REGULATIONS.—The Secretary of Agriculture shall publish—

(A) interim final regulations to carry out section 306A of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section) not later than 45 days after the date of enactment of this Act; and

(B) final regulations to carry out section 306A of such Act not later than 90 days after the date of enactment of this Act.

(2) FUNDS.—

(A) OBLIGATION.—The Secretary shall designate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306A(i) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

(B) RELEASE.—The Secretary may release funds prior to the issuance of final regulations under paragraph (1)(B) for grants under section 306A(a)(1) of the Consolidated Farm and Rural Development Act.

SEC. 502. LIVESTOCK WATER ASSISTANCE.

Section 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2202) is amended—

(1) by inserting after "measures" the following: "(including measures carried out to assist confined livestock)"; and

(2) effective only for fiscal year 1989, by striking "periods" and inserting "any fiscal year in which there is a period".

SEC. 503. DISASTER ASSISTANCE FOR WATERSHED PROTECTION ACTIVITIES.

Subtitle A of title IV of the Disaster Assistance Act of 1988 is amended by inserting after section 401 (7 U.S.C. 2204c) the following new section:

16 USC 2203 note.

"SEC. 402. DISASTER ASSISTANCE FOR WATERSHED PROTECTION ACTIVITIES.

"(a) IN GENERAL.—The Secretary of Agriculture may provide disaster relief assistance in accordance with this section to repair damage caused by storms occurring in 1988 or 1989 to watersheds located in any county in any State, to the extent that funds authorized by this section remain available.

"(b) FORM OF ASSISTANCE.—The assistance authorized by this section—

"(1) includes both financial and technical assistance; and

"(2) shall be provided in a manner consistent with similar assistance authorized under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1990.".

TITLE VI—GENERAL PROVISIONS

SEC. 601. SHRINKAGE ALLOWANCE FOR PEANUTS.

Effective only for the 1988 through 1990 crops of peanuts, section 359(p)(2)(B) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359(p)(2)(B)) is amended—

(1) in clause (i), by striking "(less such reasonable allowances for shrinkage as the Secretary may prescribe)"; and

(2) by adding at the end the following new clause:

"(iv)(I) The obligation of a handler to export peanuts in quantities described in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that such allowance shall not be less than 4½ percent, except as provided in subclause (II).

Exports.

"(II) The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.".

SEC. 602. ADVANCED DEFICIENCY REPAYMENT DEADLINE FOR 1988 CROPS.

Section 201(b)(4) of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) is amended by striking "July 31, 1989" and inserting "July 31, 1990".

SEC. 603. PLANTING OF ALTERNATE CROPS ON PERMITTED ACREAGE.

(a) In General.—Subparagraph (E)(i) of section 504(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1464(b)(2)) (as amended by the Act entitled "An Act to amend the Agricultural Act of 1949 for the 1990 crops to allow the planting of alternative crops on permitted acreage and to amend the provisions regarding the designation of farm acreage base as acreage base established for oats") is amended by inserting "mung bean, mustard," after "milkweed,".

(b) Effective Date.—The amendment made by subsection (a) shall become effective 1 day after the date of enactment of the Act so entitled.

7 USC 1464 note.

SEC. 604. CROP INSURANCE YIELD COVERAGE.

The Federal Crop Insurance Act is amended by inserting after section 508 (7 U.S.C. 1508) the following new section:

"SEC. 508A. CROP INSURANCE YIELD COVERAGE.

7 USC 1508a.

"(a) In General.—

"(1) Yield coverage.—Effective beginning with crops harvested in 1990, the Corporation may implement multiperil crop insurance underwriting rules that ensure that yield coverage, as specified in subsection (b), is provided to producers participating in the Federal crop insurance program.

"(2) Application.—Such underwriting rules and yield coverage, as specified in subsection (b), shall apply to wheat, feed grains, cotton, rice, and soybeans.

"(b) Yield Coverage.—

Contracts.

"(1) General commodities.—

"(A) Plans.—A crop insurance contract offered to a producer of a crop of wheat, feed grains, cotton, or rice shall make available to such producer—

"(i) yield coverage based on the producer's farm program yield for the crop established under the program for the commodity involved; or

"(ii) a plan that uses the producer's actual production history for the 5 previous crops, subject to paragraph (3), to determine the yield coverage.

"(B) Commodity-by-commodity basis.—A producer may choose between the two alternatives described in subparagraph (A) on a commodity-by-commodity basis.

"(2) SOYBEANS.—A crop insurance contract offered to a producer of a crop of soybeans shall be based on a yield coverage plan that uses the producer's actual production history for the 5 previous crops, subject to paragraph (3), to determine the yield coverage.

"(3) ACTUAL PRODUCTION HISTORY.—

"(A) INADEQUATE DOCUMENTATION.—Under a plan that uses actual production history, as provided for in paragraph (1) or (2), if the producer does not submit adequate documentation of such history for a crop—

"(i) in the case of any commodity other than soybeans, the producer shall be assigned the producer's farm program yield for that crop of the commodity; and

"(ii) in the case of soybeans, the producer shall be assigned a yield equal to 100 percent of the area average yield for that crop of soybeans, as established by the Corporation.

Public information.

"(B) NOTICE OF AREA AVERAGE YIELDS.—Area average yields applicable to any county shall be posted and available for inspection at the county office of the Agricultural Stabilization and Conservation Service.

"(C) MINIMUM COVERAGE.—In no case may a producer's coverage under such plan that uses actual production history be less than the coverage established using farm program yields, or (for soybeans) 100 percent of the most recent area average yield.

"(c) USE OF YIELD COVERAGE PROVISIONS.—

"(1) NOTICE.—The Corporation shall ensure that, whenever the yield coverage provisions of this section go into effect, producers are given adequate notice of such provisions in advance of the crop insurance sign-up period applicable to the crops to which such provisions first will apply.

Federal Register, publication.

"(2) SIGN-UP PERIOD.—To the extent that the provisions of this section are made applicable to the 1990 crops, the Corporation shall ensure that the sign-up period for any 1990 crop does not end earlier than 60 days following the publication of notice of such provisions in the Federal Register.".

Approved August 14, 1989.

LEGISLATIVE HISTORY—H.R. 2467 (S. 1429):

HOUSE REPORTS: No. 101-91 (Comm. on Agriculture).
SENATE REPORTS: No. 101-93 accompanying S. 1429 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
Aug. 2, considered and passed Senate, amended.
Aug. 4, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.

○

Public Law 101-83
101st Congress

Joint Resolution

To designate the week beginning September 1, 1989, as "World War II Remembrance Week".

Aug. 14, 1989
[H.J. Res. 221]

Whereas on September 1, 1939, troops of the German Third Reich launched a surprise attack upon Poland and began the military actions that led to World War II;

Whereas the Governments of Japan, Italy, and other states subsequently joined Nazi Germany in attacking their neighboring states to bolster their national pride and achieve imperialistic economic advantages;

Whereas the United Kingdom, France, the United States, and many other nations declared war upon the aggressors;

Whereas as a result of the six-year conflict that ensued over fifteen million combatants were killed and over twenty-four million noncombatants died;

Whereas the warring nations suffered nearly $1,000,000,000,000 in costs directly related to the conduct of the war, and the severe disruption and dislocation of the conflict resulted in losses totaling many times that amount to their economies;

Whereas as a result of the vicious racist policies of the Government of Nazi Germany and some of its allies, millions of innocent men, women, and children were murdered, including some six million Jews;

Whereas as a result of wartime fears and prejudices, millions of innocent individuals were needlessly displaced, interned, harassed, placed under suspicion, and deprived of their property by nations on both sides of the conflict; and

Whereas as a consequence of technological innovations which came about as a result of this war, devastating conventional weapons and the threat of nuclear annihilation directly affect growing segments of civilian populations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the fiftieth anniversary of the outbreak of World War II, the week beginning September 1, 1989, is designated "World War II Remembrance Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the period with appropriate programs, ceremonies, and activities.

Approved August 14, 1989.

LEGISLATIVE HISTORY—H.J. Res. 221:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 17, considered and passed House.
Aug. 2, considered and passed Senate.

○

Public Law 101-84
101st Congress

Joint Resolution

Aug. 14, 1989
[S.J. Res. 55]

To designate the week of October 1, 1989, through October 7, 1989, as "Mental Illness Awareness Week".

Whereas mental illness is a problem of grave concern and consequence in American society, widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than ten million Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas between 30 and 50 percent of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 percent of American adults in any six-month period;

Whereas mental illness in at least twelve million children interferes with vital developmental and maturational processes;

Whereas mental disorder-related deaths are estimated to be thirty-three thousand, with suicide accounting for at least twenty-nine thousand, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that one in ten AIDS patients will develop dementia or other psychiatric problems as the first sign of the disease and as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of $249,000,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill persons and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the seven-day period beginning October 1, 1989, and ending October 7, 1989, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved August 14, 1989.

LEGISLATIVE HISTORY—S.J. Res. 55:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 4, considered and passed House.

○

Public Law 101-85
101st Congress

Joint Resolution

Aug. 14, 1989
[S.J. Res. 67]

To commemorate the twenty-fifth anniversary of the Wilderness Act of 1964 which established the National Wilderness Preservation System.

Whereas 1989 marks the twenty-fifth anniversary of the establishment of the National Wilderness Preservation System;

Whereas wilderness areas were created to secure for the American people the benefits of an enduring resource of wilderness;

Whereas Congressionally designated wilderness is an area of undeveloped Federal land where earth and nature are untrammeled by man, and where man is a visitor who does not remain;

Whereas wilderness areas allow us to preserve ecological, geological, scientific, educational, scenic, and historical values;

Whereas wilderness areas provide outstanding opportunities for solitude and primitive recreation;

Whereas in 1924 the Gila Wilderness in New Mexico was the first administratively designated wilderness in the nation, and became statutory wilderness in 1964;

Whereas there are four hundred and seventy-four units totaling nearly ninety-one million acres in forty-four States that comprise the National Wilderness Preservation System today;

Whereas a wide range of individuals, organizations, and agencies with differing perspectives have worked with Congress to promote preservation of wilderness areas;

Whereas the Forest Service, the National Park Service, the Fish and Wildlife Service, and the Bureau of Land Management are entrusted to protect and manage our wilderness heritage;

Whereas the Wilderness Act passed in both houses of Congress with a strong sense of bipartisan support; and

Whereas the Wilderness Act was signed into law on September 3, 1964 by President Lyndon Baines Johnson: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 3 through September 9, 1989, is designated as "National Wilderness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate activities and programs.

Approved August 14, 1989.

LEGISLATIVE HISTORY—S.J. Res. 67:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Aug. 4, considered and passed House.

○

Public Law 101-86
101st Congress

An Act

To provide that a Federal annuitant or former member of a uniformed service who returns to Government service, under a temporary appointment, to assist in carrying out the 1990 decennial census of population shall be exempt from certain provisions of title 5, United States Code, relating to offsets from pay and other benefits.

Aug. 16, 1989
[H.R. 1860]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS; DESCRIPTION OF TEMPORARY POSITIONS.

13 USC 23 note.

(a) Definitions.—For purposes of this Act—

(1) the term "annuitant" means an annuitant within the meaning of section 8331(9) or 8401(2) of title 5, United States Code;

(2) the term "temporary" is used in the same way as described in section 24(b) of title 13, United States Code;

(3) the term "census of population" has the meaning given that term by section 141(g) of title 13, United States Code;

(4) the term "active employee" means an employee within the meaning of section 8331(1) or 8401(11) of title 5, United States Code;

(5) the term "retired or retainer pay" has the meaning given that term by section 5531(3) of title 5, United States Code; and

(6) the term "uniformed services" has the meaning given that term by section 2101(3) of title 5, United States Code.

(b) Description of Temporary Positions.—This Act applies with respect to service in any temporary position within the Bureau of the Census established for purposes relating to the 1990 decennial census of population (as determined under regulations which the Secretary of Commerce shall prescribe).

SEC. 2. EXEMPTION FOR REEMPLOYED ANNUITANTS.

13 USC 23 note.

(a) Generally.—Subject to subsection (b), an annuitant who becomes reemployed in a temporary position described in section 1(b) shall, with respect to any period of service in such position, be exempt from section 8344 or 8468 of title 5, United States Code (as otherwise applicable).

(b) Exceptions.—This section—

(1) shall not apply with respect to any annuitant who, immediately before being placed in the temporary position, was employed in a Government position in which pay for that annuitant was being reduced under either of the provisions referred to in subsection (a); and

(2) shall not have the effect of exempting a reemployed annuitant from section 8344 or 8468 of title 5, United States Code, after the expiration of the period described in section 4.

(c) Clarification.—Nothing in this section shall have the effect of causing a reemployed annuitant to be treated as an active employee for purposes of any provision of chapter 83 or 84 of title 5, United States Code.

13 USC 23 note.

SEC. 3. EXEMPTION FOR FORMER MEMBERS OF THE UNIFORMED SERVICES.

(a) Subject to subsection (b), the retired or retainer pay of a former member of a uniformed service employed in a temporary position described in section 1(b) shall, with respect to any period of service in such position, be exempt from section 5532 of title 5, United States Code.

(b) This section—

(1) shall not apply with respect to any former member of a uniformed service if, immediately before being placed in the temporary position, the retired or retainer pay of such former member was being reduced under section 5532 of title 5, United States Code (or would have been reduced but for subsection (d)(2) of such section); and

(2) shall not have the effect of exempting a former member of a uniformed service from section 5532 of title 5, United States Code, after the expiration of the period described in section 4.

(c) For purposes of this section, the term "former member of a uniformed service" means a member or former member of a uniformed service.

13 USC 23 note.

SEC. 4. LIMITATION.

An exemption under section 2 or 3 shall not, in the case of any individual, apply longer than—

(A) the first period of 6 calendar months for which the individual receives pay for service in any temporary position described in section 1(b), if the individual serves under not more than one appointment; or

(B) if the individual serves under more than one appointment, the first period of 6 calendar months (determined in the aggregate) for which the individual receives pay for service in any temporary position described in section 1(b).

13 USC 23 note.

SEC. 5. APPLICABILITY.

This Act applies with respect to appointments made on or after the date of enactment of this Act, but does not apply with respect to any service performed after December 31, 1990.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 1860:

HOUSE REPORTS: No. 101-142 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 17, considered and passed House.
Aug. 4, considered and passed Senate.

○

Public Law 101-87
101st Congress

An Act

To extend by 1 year a program under which the Government is allowed to accept the voluntary services of private-sector executives.

Aug. 16, 1989
[H.R. 2847]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Executive Exchange Program Voluntary Services Act of 1986 (5 U.S.C. 4103 note) is amended by striking "1989" and inserting "1990".

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 2847:

HOUSE REPORTS: No. 101-180 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 31, considered and passed House.
Aug. 3, considered and passed Senate.

○

Public Law 101-88
101st Congress

Joint Resolution

Aug. 16, 1989
[H.J. Res. 225]

To authorize and request the President to issue a proclamation designating the third Sunday of August of 1989 as "National Senior Citizens Day".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the third Sunday of August of 1989 as "National Senior Citizens Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities in honor of the contributions to the United States of individuals more than 55 years of age.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.J. Res. 225:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 3, considered and passed House and Senate.

○

Public Law 101-89
101st Congress

Joint Resolution

Designating September 1989 as "National Library Card Sign-Up Month".

Aug. 16, 1989
[H.J. Res. 231]

Whereas American libraries of all kinds (public libraries, school library media centers, academic and research libraries, and special libraries) are essential to national literacy, lifelong learning, and a productive economy;

Whereas children who are read to in their homes at an early age and who grow up regularly using libraries perform better in school and are more likely to continue to be library users as adults;

Whereas the United States National Commission on Libraries and Information Science and the American Library Association have launched a national campaign to ensure that every school-age child in the Nation will have, and will be encouraged to use, a library card;

Whereas a library card cannot be outgrown and is good for a lifetime of learning and enjoyment;

Whereas parents and schools are important partners in the effort to give the wonderful gift of a library card to every child in the Nation; and

Whereas a library card is an essential resource for every child's education and September is the month during which children return to school: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1989 is designated as "National Library Card Sign-Up Month", and the President is authorized and requested to issue a proclamation calling upon the libraries, schools, and people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.J. Res. 231:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 3, considered and passed House.
Aug. 4, considered and passed Senate.

○

29-139 0 - 89 (89)

Public Law 101-90
101st Congress

Joint Resolution

Aug. 16, 1989
[H.J. Res. 253]

Designating September 8, 1989, as "National Pledge of Allegiance Day".

Whereas Francis Bellamy wrote the Pledge of Allegiance to the Flag in 1892 in observance of the 400th anniversary of the discovery of America;

Whereas the Pledge of Allegiance first appeared in print in the September 8, 1892, edition of The Youth's Companion magazine;

Whereas in 1942, the 77th Congress passed, and the President approved, legislation concerning the display and use of the United States flag, which included the Pledge of Allegiance; and

Whereas the Pledge of Allegiance is one of the most widely recited verses of American literature: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL PLEDGE OF ALLEGIANCE DAY.

September 8, 1989, is designated as "National Pledge of Allegiance Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this day by displaying the United States flag and by participating in other appropriate activities.

SEC. 2. USE OF THE PLEDGE DURING CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE ACTIVITIES.

It is the sense of the Congress that the Christopher Columbus Quincentenary Jubilee Commission, created pursuant to Public Law 98-375 to commemorate the 500th anniversary in 1992 of the discovery of America, should include the centennial observance of the Pledge of Allegiance in its commemorative activities.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.J. Res. 253:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 4, considered and passed House and Senate.

○

Public Law 101-91
101st Congress

Joint Resolution

Commending the citizens of the Sioux City, Iowa, tri-State area for their heroism and spirit of volunteerism in selflessly providing assistance and life-saving services to the passengers and crew of United Airlines Flight 232.

Aug. 16, 1989
[H.J. Res. 379]

Whereas United Airlines Flight 232 tragically crashed while making an emergency landing attempt at the Sioux Gateway Airport in Sioux City, Iowa, on July 19, 1989;

Whereas the skills and courage of the pilot, flight crew, and air traffic controllers, and the immediate mobilization of State and local rescue units from Iowa, Nebraska, and South Dakota, significantly contributed to the survival of 185 of the 296 passengers aboard the flight;

Whereas the disaster plan which had been designed by the Woodbury County Disaster Committee was largely responsible for the remarkable success of the rescue effort;

Whereas the people of the Sioux City, Iowa, tri-State area mobilized without hesitation to provide aid and comfort to the injured;

Whereas by the time that United Airlines Flight 232 touched down, the Sioux Gateway Crash, Fire, and Rescue Squad, the 185th Tactical Fighter Group of the Iowa Air National Guard, members of city police forces and county sheriffs' departments, municipal firefighters, Red Cross workers, and other local rescue teams were on the scene to immediately begin to help the wounded and transport them for treatment;

Whereas the physicians, nurses, and other personnel of St. Luke's Regional Medical Center and the Marian Health Center worked exhaustively to treat the injured;

Whereas hundreds of people in the Sioux City, Iowa, tri-State area donated blood at a local bloodbank without solicitation to assist in the treatment efforts;

Whereas Briar Cliff College and Morningside College opened their dormitories to the survivors, the families of the survivors, rescue teams, and investigators while residents contributed blankets, clothing, and food; and

Whereas had it not been for the remarkable speed, skill, and preparedness of the emergency crews, and the assistance and generosity of the people of the Sioux City, Iowa, tri-State area, the number of survivors would likely have been much lower: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the citizens of the Sioux City, Iowa, tri-State area are commended for their heroism and spirit of volunteerism in selflessly providing assistance and life-saving services to the passengers and crew of United Airlines Flight 232, and the President is authorized and requested to issue a proclamation making such commendation.

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.J. Res. 379:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 4, considered and passed House and Senate.

○

Public Law 101-92
101st Congress

An Act

To authorize appropriations for fiscal year 1990 for the Federal Maritime Commission, and for other purposes.

Aug. 16, 1989
[H.R. 840]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. In fiscal year 1990, $16,350,000 is authorized to be appropriated for the use of the Federal Maritime Commission.

Public information.
46 USC app. 1111c.

SEC. 2. (a) The Federal Maritime Commission shall require that complete and updated electronic copies of the Automated Tariff Filing and Information data base are made available (in bulk) in a timely and nondiscriminatory fashion, and the Commission shall assess reasonable fees for this service consistent with section 552 of title 5, United States Code.

(b) The Commission shall impose reasonable controls on the system to limit remote access usage by any one person.

(c) The Commission shall provide that any information from the Automated Tariff Filing and Information System that is made available to the public may be used, resold, or disseminated by any person without restriction and without payment of additional fees or royalties.

SEC. 3. The first paragraph of section 2 of the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 844) is amended—

(1) by inserting in the third sentence after "on board each vessel" the words "that carries passengers";

(2) by striking in the seventh sentence ", if filed as permitted by this section and framed under glass and posted in a conspicuous place on board each vessel where they may be seen by passengers and others at all times,"; and

(3) by striking in the seventh sentence "on board each vessel" the second time it appears.

Fish and fishing.

SEC. 4. (a) Notwithstanding sections 12106 through 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for employment in the coastwise trade or fisheries, or both, for the following vessels:

(1) African Queen, United States official number 947514 and Florida registration number FL 9357CE;

(2) American Empire, United States official number 553645;

(3) HMS Discovery, Washington State registration number WAZ 9816 F; and

(4) Papa Joe, Florida registration number FL 3900CW.

(b) Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), and United States Department of Transportation Contract Numbered MA-3915 and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V Northern Victor (ex Ocean Cyclone, ex Coastal Spartan), United States official number 248959, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: *Provided*, That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

SEC. 5. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and sections 12106 and 12107 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for employment in the coastwise trade of the United States for the vessel M/V South Bass (Registration number 949048).

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 840:

HOUSE REPORTS: No. 101-31 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-71 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Apr. 25, considered and passed House.
  Aug. 4, considered and passed Senate, amended. House concurred in Senate amendments.

○

Public Law 101-93
101st Congress

An Act

To amend the Public Health Service Act to make technical corrections relating to subtitles A and G of title II of the Anti-Drug Abuse Act of 1988, and for other purposes.

Aug. 16, 1989
[H.R. 1426]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Drug Abuse Treatment Technical Corrections Act of 1989.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Treatment Technical Corrections Act of 1989".

SEC. 2. TECHNICAL CORRECTIONS WITH RESPECT TO ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT.

(a) FORMULA FOR ALLOTMENTS.—

(1) FACILITATING EXECUTION OF AMENDMENT.—Section 2022(a) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended by striking "Subpart I" and inserting "Subpart 1".

42 USC 300x-1a.

(2) MODIFICATION FOR DISTRICT OF COLUMBIA.—Section 1912A(a)(4) of the Public Health Service Act, as added pursuant to paragraph (1) of this subsection and section 2022 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking subparagraphs (C) and (D) and inserting the following:

42 USC 300x-1a.

"(C) In the case of the several States, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State involved, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P', as determined for the State under subparagraph (B).

"(D) In the case of the several States, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of—

"(I) the sum of the respective amounts determined for each of the several States under subparagraph (C)(i); and

"(II) an amount equal to the most recent 3-year average of the total taxable resources of the District of Columbia, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each of the several States, and for the District of Columbia, under subparagraph (B).

"(E) In the case of the District of Columbia, for purposes of the formula specified in subparagraph (A)(ii)(II)—

"(i) the term 'S' means the quotient of—

"(I) an amount equal to the most recent 3-year average of the total personal income in such District, as determined by the Secretary of Commerce; divided by

"(II) an amount equal to the term 'P', as determined for such District under subparagraph (B); and

"(ii) the term 'N' means the quotient of—

"(I) an amount equal to the most recent 3-year average of the total personal income in the United States, as determined by the Secretary of Commerce; divided by

"(II) an amount equal to the sum of the respective terms 'P' determined for each of the several States, and for the District of Columbia, under subparagraph (B).".

(3) CLARIFICATION WITH RESPECT TO ALLOTMENTS FOR TERRITORIES.—Section 1912A(c) of the Public Health Service Act, as added pursuant to paragraph (1) of this subsection and section 2022(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows:

42 USC 300x-1a.

"(c)(1) Subject to paragraph (2), the allotment under this subpart for a territory of the United States shall be the product of—

"(A) an amount equal to the amounts reserved under paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the population of the territory, as indicated by the most recently available data; divided by

"(ii) the aggregate population of the territories of the United States, as indicated by such data.

"(2) Each territory of the United States shall receive a minimum allotment under this subpart of the greater of—

"(A) $100,000; and

"(B) an amount equal to 105 percent of the sum of—

"(i) the amount the territory received under section 1913 for fiscal year 1988 (as such section was in effect for such fiscal year); and

"(ii) the amount the territory received under part C for fiscal year 1988 (as such part was in effect for such fiscal year).

"(3) The Secretary shall reserve for the territories of the United States 1.5 percent of the amounts appropriated pursuant to section 1911 for allotments under this subpart for each fiscal year.".

(4) CERTAIN ADDITIONAL CLARIFICATIONS.—Section 1912A of the Public Health Service Act, as added and amended pursuant to paragraphs (1) through (3) of this subsection and sections 2022 and 2023 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

(A) in subparagraph (A) of subsection (a)(4)—

(i) in clause (i), by striking "the term" and all that follows and inserting the following: "the term 'P', as determined for the State involved under subparagraph (B); and"; and

(ii) in clause (ii)(II), by inserting "for the State" after "determined";

(B) in subparagraph (B) of subsection (a)(4), in clauses (ii) through (iv), by striking "years of age," each place such term appears and inserting "years of age (inclusive)";

(C) in subsection (b)(2)(B), by inserting before the period the following: "(as such part was in effect for such fiscal year)";

(D) in subsection (e)—

(i) in paragraph (1)(A), by striking "appropriated" and inserting "available for allotments to the States from appropriations"; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "for the fiscal year involved"; and

(II) in subparagraph (B), by striking "or less than"; and

(E) in subsection (f), by striking "applicable amount" each place it appears and inserting "amount applicable".

(5) Realignment of margins.—Section 1912A(a) of the Public Health Service Act, as added and amended pursuant to paragraphs (1) through (4) of this subsection and section 2022 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

42 USC 300x-1a.

(A) by moving paragraph (2), including the subparagraphs of such paragraph, 2 ems to the left, so that the left margin of such paragraph is indented 2 ems and the left margins of such subparagraphs are indented 4 ems;

(B) by moving paragraph (3) 2 ems to the left, so that the left margin of such paragraph is indented 2 ems; and

(C) by moving paragraph (4), including the subparagraphs, clauses, and subclauses of such paragraph, 2 ems to the left, so that—

(i) the left margin of such paragraph is indented 2 ems;

(ii) the left margins of clauses (i) and (ii) of subparagraph (A) are indented 4 ems and the left margins of subclauses (I) and (II) of such clause (ii) are indented 6 ems; and

(iii) the left margins of subparagraphs (B) through (E) are indented 2 ems, the left margins of the clauses of such subparagraphs are indented 4 ems, and the left margins of the subclauses of such clauses are indented 6 ems.

(b) Certain Provisions With Respect to Allotments.—Section 1913(a) of the Public Health Service Act, as amended by section 2022(d) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

42 USC 300x-1b.

(1) by redesignating subparagraphs (A) through (C) as paragraphs (1) through (3), respectively; and

(2) in the matter after and below paragraph (3) (as so redesignated), by striking "this paragraph." and inserting "this subsection.".

(c) Payments Under Allotments.—

(1) Corrections of certain references.—Paragraph (1) of section 1914(a) of the Public Health Service Act (42 U.S.C. 300x-2(a)) is amended—

(A) by striking "section 203" and all that follows through the comma and inserting the following: "section 6503 of title 31, United States Code,";

(B) by striking "1913(b)" and inserting "1912A"; and

(C) by striking "1913(c))" and inserting "1913(b))".

42 USC 300x-2 note.

(2) ESTABLISHMENT OF WAIVER WITH RESPECT TO AVAILABILITY OF PAYMENTS.—

(A) Notwithstanding paragraph (2) of section 1914(a) of the Public Health Service Act, as amended by section 2022(e) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), the Secretary of Health and Human Services, upon the request of a State, may waive, with respect to fiscal year 1989, the requirement established in such paragraph if the Secretary determines that it is not practicable for the State to comply with such requirement.

(B) If the Secretary approves a request for a waiver under subparagraph (A), amounts paid to a State for fiscal year 1989 under subpart 1 of part B of title XIX of the Public Health Service Act—

(i) shall remain available for obligation by the State until October 1, 1990; and

(ii) shall remain available for expenditure by the State until such date.

(d) PREVENTION AND TREATMENT WITH RESPECT TO INTRAVENOUS DRUG ABUSE.—Section 1915(c) of the Public Health Service Act, as amended by section 2025 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended— 42 USC 300x-3.

(1) in paragraph (1)(C), by inserting "intravenous" before "drug"; and

(2) in paragraph (2), by striking "and" at the end of subparagraph (A) and inserting "or".

(e) NEW MENTAL HEALTH SERVICES AND PROGRAMS.—Section 1916(c)(2)(A) of the Public Health Service Act, as amended by section 2027 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "this part" and inserting "this subpart". 42 USC 300x-4.

(f) INDEPENDENT PEER REVIEW AND MANNER OF COMPLIANCE.—

(1) FACILITATING EXECUTION OF AMENDMENT.—Section 2028 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended in the matter preceding paragraph (1) by striking "1916" and inserting "1916(c)". 42 USC 300x-4.

(2) CORRECTION OF SENTENCE STRUCTURE.—Section 1916(c)(5) of the Public Health Service Act, as amended pursuant to paragraph (1) of this subsection and section 2028 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "the State will" and inserting "The State agrees to".

(g) INTRASTATE ALLOCATIONS.—

(1) IN GENERAL.—Section 1916(c)(6)(A) of the Public Health Service Act (42 U.S.C. 300x-4(c)(6)(A)) is amended by amending the matter preceding clause (i) to read as follows: "Except as provided in subparagraph (B), the State agrees to use the funds allotted to it each fiscal year under section 1912A for the mental health and alcohol and drug abuse activities authorized in section 1915 as follows:".

(2) DETERMINATION OF ALLOCATION FOR MENTAL HEALTH PROGRAMS.—Clause (i) of section 1916(c)(6)(A) of the Public Health Service Act (42 U.S.C. 300x-4(c)(6)(A)) is amended—

(A) by inserting "and" after "Systems Act";

(B) by striking "State in fiscal year 1980" and inserting "State (I) in fiscal year 1980"; and

(C) by inserting before the period the following: ", (II) in fiscal year 1988 under part C of this title (as such part was in effect for such fiscal year), and (III) in fiscal year 1989 under appropriations made in the Anti-Drug Abuse Act of 1988 to carry out this subpart".

(3) DETERMINATION OF ALLOCATION FOR PROGRAMS WITH RESPECT TO TREATMENT OF SUBSTANCE ABUSE.—

(A) Clause (ii) of section 1916(c)(6)(A) of the Public Health Service Act, as amended by section 2029(1) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as if the amendment made by such section 2029(1) had not been enacted.

42 USC 300x-4.

(B) Clause (ii) of section 1916(c)(6)(A) of the Public Health Service Act, as amended by subparagraph (A), is further amended—

(i) by striking "State in fiscal year 1980" and inserting "State (I) in fiscal year 1980";

(ii) by striking "Rehabilitation Act bore to" and inserting the following: "Rehabilitation Act, (II) in fiscal year 1988 under part C of this title (as such part was in effect for such fiscal year), and (III) in fiscal year 1989 under appropriations made in the Anti-Drug Abuse Act of 1988 to carry out this subpart bore to"; and

(iii) by striking "such fiscal year under such sections" and inserting "such fiscal years under such provisions of law".

(4) CERTAIN CLARIFICATIONS.—Section 1916(c)(6)(B) of the Public Health Service Act, as amended by section 2029(2) of the Anti-Drug Abuse Act of 1988, is amended—

(A) by striking "under section 1913" and all that follows through "fiscal year 1984" and inserting the following: "under section 1912A for fiscal years beginning after 1988"; and

(B) by striking "activities prescribed" and all that follows and inserting the following: "activities authorized in section 1915 as required in subparagraph (A).".

(h) SET-ASIDE FOR SERVICES FOR INTRAVENOUS DRUG ABUSE.—

(1) TECHNICAL CORRECTION FOR FACILITATION OF ESTABLISHMENT OF WAIVER.—Section 1916(c)(7) of the Public Health Service Act, as amended by section 2030 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as if the amendment made by such section 2030 had not been enacted.

(2) ESTABLISHMENT OF WAIVER.—Section 1916(c)(7) of the Public Health Service Act, as amended by paragraph (1), is further amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting "(A)" after the paragraph designation; and

(C) by adding at the end the following new subparagraph:

"(B)(i) For fiscal year 1990 and subsequent fiscal years, the State agrees that, of the amounts reserved by the State to carry out subparagraph (A)(ii), the State will expend not less than 50 percent to provide services described in section 1915(c).

State and local governments.

"(ii) The Secretary may, upon the request of a State, waive all or part of the requirement established in clause (i) for the State if the Secretary determines that the incidence of intravenous drug abuse in the State does not require the level of funding required in such clause. The Secretary shall act upon a request for such a waiver not later than 120 days after the date on which the request is made. The Secretary may approve such request only after providing interested persons in the State an opportunity to comment upon the request.".

(i) MAINTENANCE OF EFFORT.—Section 1916(c)(11) of the Public Health Service Act, as amended by section 2031 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "that the State" and all that follows through "this subpart" and inserting the following: "to maintain State expenditures for alcohol, drug abuse, and community mental health services". 42 USC 300x-4.

(j) SET-ASIDE FOR WOMEN AND CHILDREN.—Section 1916(c)(14) of the Public Health Service Act, as amended by section 2032 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

(1) by striking "this part" and inserting "this subpart"; and

(2) by inserting "alcohol and drug abuse" before "programs".

(k) SET-ASIDE FOR MENTAL HEALTH SERVICES FOR CHILDREN.—Section 1916(c)(15) of the Public Health Service Act, as amended by section 2033 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by adding a period at the end of subparagraph (B).

(l) ESTABLISHMENT OF REQUIREMENT OF MENTAL HEALTH SERVICES PLANNING COUNCIL.—Section 1916(e) of the Public Health Service Act, as amended and designated by subsections (a) and (b) of section 2035 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

(1) in paragraph (1), by striking "The State agrees" and inserting the following: "As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees"; and

(2) in paragraph (5), by striking "section 1925" and inserting "subsection (d)".

(m) GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS.—

(1) FACILITATING EXECUTION OF AMENDMENT.—Section 2036 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended by striking "Subpart I" and inserting "Subpart 1". 42 USC 300x-4a.

(2) INAPPLICABILITY OF REQUIREMENT TO TERRITORIES OTHER THAN PUERTO RICO.—Section 1916A of the Public Health Service Act, as added pursuant to paragraph (1) of this subsection and section 2036 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by adding at the end the following new subsection: 42 USC 300x-4a.

"(d) The requirements established in subsections (a) and (b) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.".

(n) SERVICE RESEARCH ON COMMUNITY-BASED ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.—

(1) CLARIFICATION IN PUBLIC HEALTH SERVICE ACT.—Section 1922 of the Public Health Service Act, as added by section 2039 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended in the second sentence by striking "programs" and inserting "evaluations". 42 USC 300x-9a.

(2) CLARIFICATION IN ANTI-DRUG ABUSE ACT OF 1988.—Section 2039(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended by striking "the program to be established under" and inserting "carrying out the evaluations required in". 42 USC 300x-9a note.

(o) STATE COMPREHENSIVE MENTAL HEALTH SERVICE PLAN.—

(1) NULLIFICATION OF INCORRECT EXPRESSION OF CONGRESSIONAL INTENT.—Section 1925(d) of the Public Health Service

42 USC 300x-11.

Act, as amended by section 2041(a) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as if the amendment made by such section 2041(a) had not been enacted.

42 USC 300x-12.

(2) Effectuation of congressional intent.—Section 1926(d) of the Public Health Service Act, as redesignated by section 2038 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows:

State and local governments.

"(d) The amount referred to in subsections (a), (b), and (c) with respect to a State is the total amount that the State is permitted to expend for administrative expenses under section 1915(d) for fiscal year 1986 from amounts paid to the State under subpart 1 for such fiscal year. If in the judgment of the Secretary, the State is making a good faith effort to comply with this subpart, the Secretary may assess the State a penalty that is less than the maximum penalty, but in no event shall the penalty be less than 2 percent of the amount the State is permitted to expend for administrative expenses.".

42 USC 300x-11 note.

(3) Correction of cross-reference in anti-drug abuse act of 1988.—Section 2041(b)(2)(D) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended by striking "this title." and inserting "such section 1925.".

(p) Miscellaneous Corrections.—Subpart 1 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-4) is amended—

42 USC 300x-4.

(1) in section 1916—

(A) in subsection (a), in the first sentence, by striking "1913(b)" and inserting "1912A"; and

(B) in subsection (b), by striking "After the expiration" and all that follows through "such section unless" and inserting the following: "No funds shall be allotted to a State for a fiscal year under section 1912A unless"; and

42 USC 300x-5.

(2) in section 1917(b)(3), in the last sentence, by striking "1913." and inserting "1912A.".

(q) Seriously Mentally Ill.—

(1) Mental health services planning council.—Section 1916(e)(3)(iii) of the Public Health Service Act (42 U.S.C. 300x-4(e)(3)(iii)) is amended by striking out "chronically" and inserting in lieu thereof "seriously".

(2) Community-based mental health treatment.—Section 1923(c)(1) of such Act (42 U.S.C. 300x-9b(c)(1)) is amended by striking out "chronically" and inserting in lieu thereof "seriously" each place that such occurs.

SEC. 3. TECHNICAL CORRECTIONS WITH RESPECT TO CERTAIN PROGRAMS OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION.

42 USC 290aa-6.

(a) Office for Substance Abuse Prevention.—Section 508 of the Public Health Service Act, as amended by subsections (a) and (c) of section 2051 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

(1) in subsection (d)(1), by inserting a comma after "509F"; and

(2) in subsection (b)(11)(B), by striking "subparagraph (a)" and inserting "subparagraph (A)".

42 USC 290aa-11.

(b) Requirement of Annual Collection by Secretary of Certain Data With Respect to Mental Illness and Substance Abuse.—Section 509D(c) of the Public Health Service Act, as added by section 2052 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

(1) in paragraph (1)(A), by striking "alcohol and" and inserting "alcohol or"; and

(2) in paragraph (2), by striking "this section." and inserting "this subsection.".

(c) REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.—Section 509E(d) of the Public Health Service Act, as added by section 2053 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows:

42 USC 290aa-12.

"(d) With respect to a public or nonprofit private entity, the Secretary may not, under subsection (a), make more than one grant to the entity.".

(d) DRUG ABUSE DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.—Section 509G of the Public Health Service Act, as added by section 2055 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

42 USC 290aa-14.

(1) in subsection (a)(2)—

(A) by striking "subsection (a)" and inserting "paragraph (1)"; and

(B) by inserting "a" before "result"; and

(2) in subsection (b)—

(A) in paragraph (2), in the matter preceding subparagraph (A), by striking "subsection (a)" and inserting "paragraph (1)";

(B) in paragraph (3), in the matter preceding subparagraph (A), by striking "subsection (a)" and inserting "paragraph (1)";

(C) in paragraph (4)—

(i) by striking "subsection (a)" and inserting "paragraph (1)"; and

(ii) by striking "by regulation";

(D) in paragraph (5), by striking "subsection (a)" and inserting "paragraph (1)";

(E) in paragraph (6), by striking "this section" and inserting "paragraph (1)"; and

(F) in paragraph (7)—

(i) by striking "this section" the first place it appears and inserting "paragraph (1)"; and

(ii) by striking "this section" the second place it appears and inserting "such paragraph".

(e) ESTABLISHMENT OF GRANT PROGRAMS FOR RESEARCH WITH RESPECT TO MENTAL HEALTH SERVICES.—

(1) CERTAIN REDESIGNATIONS.—

(A) Subpart 3 of part B of title V of the Public Health Service Act, as added by section 2057(3) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by redesignating sections 519 through 520A as sections 518 through 520, respectively.

42 USC 290cc-11—290cc-13.

(B) Section 520(a) of the Public Health Service Act, as redesignated by subparagraph (A), is amended—

42 USC 290cc-13.

(i) by redesignating paragraph (5) as paragraph (4); and

(ii) in paragraphs (2) through (4) (as so redesignated), by inserting "for" before "demonstration" each place such term appears.

(2) CORRECTION TO CERTAIN SECTION TITLE.—Section 520 of the Public Health Service Act, as redesignated by paragraph (1)(A),

is amended in the title by striking "PROGRAM" and inserting "PROGRAMS".

(f) Miscellaneous Amendments.—

(1) Reference to office for substance abuse prevention.—Section 501(b)(4) of the Public Health Service Act, as added by section 2058(a)(2)(A) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "of" and inserting "for".

42 USC 290aa.

(2) Authority for establishment of program advisory committees.—Section 501(j) of the Public Health Service Act (42 U.S.C. 290aa(j)) is amended in the first sentence—

(A) by striking "section 507" and all that follows through "groups," and inserting the following: "section 507, establish program advisory committees, and pay members of such groups and committees,"; and

(B) by striking "as members of such groups." and inserting "as members of such groups or committees.".

(g) Seriously Mentally Ill.—Section 520A of the Public Health Service Act (42 U.S.C. 290cc-13) is amended by striking out "chronically" and inserting in lieu thereof "seriously" each place that such occurs.

SEC. 4. TECHNICAL CORRECTIONS WITH RESPECT TO COMMUNITY YOUTH ACTIVITY PROGRAM.

Chapter 3 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is amended—

(1) in section 3521—

42 USC 11841.

(A) in subsection (b)(2), by striking "subsections (c)(3)(B) and (e)" and inserting "subsection (e)"; and

(B) in subsection (c)(3)(A), in the matter preceding clause (i), by striking "subsection (h)" and inserting "subsection (g)"; and

(2) in section 3522(a), by striking "(as defined in section 3601(6))".

42 USC 11842.

SEC. 5. TECHNICAL CORRECTIONS WITH RESPECT TO HEALTH OMNIBUS PROGRAMS EXTENSION OF 1988.

(a) National Institute of Neurological Disorders and Stroke.—Section 457 of the Public Health Service Act, as amended by section 2(3)(B) of the National Institute on Deafness and Other Communication Disorders Act (Public Law 100-553), section 101(3)(B) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), and section 2613 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "disease and and" and inserting "disease and".

42 USC 285j.

(b) National Institute on Deafness and Other Communication Disorders.—Section 464D(k) of the Public Health Service Act, as added and amended by section 2(4) of the National Institute on Deafness and Other Communication Disorders Act (Public Law 100-553), section 101(4) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), and section 2613 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "90 days" and all that follows and inserting "April 1, 1989.".

42 USC 285m-4.

(c) National Cancer Institute.—Section 413(a) of the Public Health Service Act, as amended by section 122(1)(A)(ii) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended in the second sentence by striking "Institute and and" and inserting "Institute and".

42 USC 285a-2.

42 USC 288.

(d) National Research Service Awards.—Section 487(d)(3) of the Public Health Service Act, as similarly amended by sections 151(2) and 635 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended to read as if the amendment made by such section 635 had not been enacted.

(e) Prevention of Acquired Immune Deficiency Syndrome.—

42 USC 300ee, 300ee-11—300ee-34.

(1) Correction in title designation.—Title XV of the Public Health Service Act (relating to prevention of acquired immune deficiency syndrome), as inserted after title XXIV of such Act by section 221 of the Health Omnibus Programs Extension of 1988, is amended by redesignating such title XV as title XXV.

42 USC 300ee-17.

(2) Clarification with respect to availability of appropriations.—Section 2507(a) of the Public Health Service Act, as added by section 221 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and amended by section 2619(e) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "The allotment" and inserting the following: "Subject to the extent of amounts made available in appropriation Acts, the allotment".

42 USC 242c.

(3) Certain cross-reference in conforming amendments.—Section 2620(b)(3) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows:

"(3) in section 305(i), by striking '2511' and inserting '2611' ".

(f) Immunosuppressive Drug Therapy Block Grant.—

(1) Conforming amendments to public health service act.—Title XIX of the Public Health Service Act, as amended by section 408 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and by section 2038(1) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended—

42 USC prec. 300y-21.

(A) by redesignating part D as part C; and

42 USC 300y-27.

(B) in section 1937, by striking "The amendments" and all that follows through "Act" and inserting "This part".

42 USC 300y-21 note.

(2) Conforming amendment to health omnibus programs extension of 1988.—Section 408(b)(1) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is amended by striking "part D" and all that follows and inserting the following: "part C of title XIX of the Public Health Service Act.".

(g) Scope and Duration of Federal Loan Insurance Program.—

42 USC 294a.

(1) In general.—The second sentence of section 728(a) of the Public Health Service Act, as similarly amended by sections 602(b)(1) and 707(1) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and as further amended by section 2615(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended by striking "to that fiscal year" and all that follows and inserting the following: "to that fiscal year, and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans (including loans to new borrowers) and paying installments for such fiscal year.".

42 USC 294a note.

(2) Effective date.—The amendment made by paragraph (1) shall take effect as if such amendment had been enacted on November 4, 1988.

(h) Educational Assistance to Individuals From Disadvantaged Backgrounds.—

42 USC 295g-7.

(1) Repeal of ineffectual provision.—Section 2615(d) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) is repealed.

42 USC 295g-7.

(2) Effectuation of congressional intent.—Section 787(a)(2)(G) of the Public Health Service Act, as added and amended by sections 611(a)(3) and 629(b) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking ", except schools of medicine, osteopathic medicine, or dentistry".

(i) Grants for Minority Education.—

42 USC 295g-2.

(1) Facilitating execution of amendment.—Section 614(a) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is amended by striking "Section 778A" and inserting "Section 788A".

42 USC 295g-2.

(2) Correction of certain cross-reference.—Section 782(c)(2) of the Public Health Service Act, as added pursuant to paragraph (1) of this subsection and section 614(c) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "under section 788A" and all that follows and inserting the following: "under section 788B for fiscal year 1987 (as such section was in effect for such fiscal year).".

42 USC 295h.

(j) Graduate Programs in Health Administration.—Section 791(c)(2)(A)(i) of the Public Health Service Act, as amended by section 618(a)(2) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "submitted," and all that follows and inserting "submitted; and".

(k) Training With Respect to Acquired Immune Deficiency Syndrome.—

42 USC 295g-8b.

(1) Redesignation.—Section 788B of the Public Health Service Act, as amended by section 622 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is redesignated as section 788A.

(2) Correction of certain cross-reference.—Section 788A of the Public Health Service Act, as redesignated by paragraph (1) of this subsection, is amended in paragraphs (1) and (2) of subsection (f) by striking "section 788(e)(4)(B)" each place such term appears and inserting "section 789(b)(4)(B)".

(l) Definition of Allied Health Professional.—

(1) Repeal of ineffectual provision.—Section 623(b)(1) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is repealed.

42 USC 292a.

42 USC 292a.

(2) Effectuation of congressional intent.—Section 701(13) of the Public Health Service Act is amended in the matter preceding subparagraph (A) by striking "an individual—" and inserting "a health professional—".

42 USC 292h.

(m) Health Professions Data.—Section 708(h)(2) of the Public Health Service Act, as added by section 626 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and amended by section 2615(a) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended to read as follows:

"(2) With respect to reports required in subsection (d), each such report made on or after October 1, 1991, shall include a description and analysis of data collected pursuant to paragraph (1).".

(n) Health Care for Rural Areas.—

(1) Repeal of ineffectual provision.—Section 637(b) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is repealed.

42 USC 295j.

42 USC 295j.

(2) Effectuation of congressional intent.—Title VII of the Public Health Service Act, as amended by section 637(a) of the Health Omnibus Programs Extension of 1988 (Public Law 100-

690) and section 714 of the Indian Health Care Amendments of 1988 (Public Law 100-713), is amended to read as if the amendment made by such section 714 had not been enacted.

(3) STRIKING OF SUPERFLUOUS COMMA.—Title VII of the Public Health Service Act, as amended by paragraph (2) of this subsection and by the second subsection (g) of section 2615 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended in section 799A(f)(4) by striking the comma. 42 USC 295j.

(o) REFERENCES WITH RESPECT TO OSTEOPATHIC MEDICINE.—Title VII of the Public Health Service Act, as amended by title VI of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and by section 2615 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), is amended— 42 USC 292a *et seq.*

(1) by striking "school of medicine, dentistry, osteopathy" and "schools of medicine, dentistry, osteopathy" each place such terms appear and inserting "school of medicine, dentistry, osteopathic medicine" and "schools of medicine, dentistry, osteopathic medicine", respectively;

(2) by striking "Schools of medicine, osteopathy" each place such term appears and inserting "Schools of medicine, osteopathic medicine";

(3) by striking "schools of medicine and osteopathy", "schools of medicine or osteopathy", and "school of medicine or osteopathy", each place such terms appear and inserting "schools of medicine and osteopathic medicine", "schools of medicine or osteopathic medicine", and "school of medicine or osteopathic medicine", respectively;

(4) by striking "schools and graduate departments of medicine, nursing, osteopathy" each place such term appears and inserting "schools and graduate departments of medicine, nursing, osteopathic medicine";

(5) by striking "medical or osteopathic" each place such term precedes "schools" or "students" and inserting "medical (M.D. and D.O.)"; and

(6) by striking "medical and osteopathic" each place such term precedes "schools" or "students" and inserting "medical (M.D. and D.O.)".

(p) DETAIL TO DEPARTMENT OF DEFENSE OF COMMISSIONED OFFICERS OF PUBLIC HEALTH SERVICE.—Section 206(e) of the Public Health Service Act (42 U.S.C. 207(e)) is amended by striking "the office of Assistant Secretary of Defense for Health Affairs" and inserting "the Department of Defense".

(q) NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.—Section 822(b)(3) of the Public Health Service Act, as amended by section 703(b) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by adding a period at the end. 42 USC 296m.

(r) CERTAIN CROSS-REFERENCE IN PROGRAM OF LOAN REPAYMENTS FOR SERVICE IN CERTAIN HEALTH FACILITIES.—Section 836(h)(6)(C) of the Public Health Service Act, as added by section 714(c) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "means an intermediate care facility" and all that follows and inserting the following: "means a skilled nursing facility, as such term is defined in section 1861(j) of the Social Security Act, and an intermediate care facility, as such term is defined in section 1905(c) of such Act.". 42 USC 297b.

(s) CERTAIN CROSS-REFERENCE IN PROGRAM OF NURSING SCHOLARSHIPS.—Section 843(e)(3) of the Public Health Service Act, as added 42 USC 297j.

by section 715 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "means an intermediate care facility" and all that follows and inserting the following: "means a skilled nursing facility, as such term is defined in section 1861(j) of the Social Security Act, and an intermediate care facility, as such term is defined in section 1905(c) of such Act.".

(t) PROVISIONS WITH RESPECT TO HOMELESS INDIVIDUALS.—

(1) NULLIFICATION OF REDUNDANT ENACTMENT OF PROVISIONS WITH RESPECT TO HEALTH SERVICES.—

(A) The provisions of law specified in subparagraph (B), as similarly amended by title VIII of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) and title VI of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628), are amended to read as if the amendments made by title VI of Public Law 100-628 had not been enacted.

(B) The provisions of law referred to in subparagraph (A) are—

(i) section 612(a) of the Stewart B. McKinney Homeless Assistance Act; and

(ii) section 340 of the Public Health Service Act and title V of such Act.

42 USC 290aa-3 note.
42 USC 256, 42 USC 290aa *et seq.*

(2) MENTAL HEALTH DEMONSTRATION PROGRAMS.—The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act, as amended by paragraph (1) of this subsection and by section 821 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607), is amended by striking "section 504(f)" and inserting "section 520".

(3) OPTIONAL PROVISION OF CERTAIN SERVICES.—Section 340(g) of the Public Health Service Act (42 U.S.C. 256(g)) is amended—

(A) by striking "providing" and all that follows and inserting the following: "providing to homeless individuals mental health services, dental services (including dentures), services with respect to vision, and podiatry services."; and

(B) in the subsection heading, by striking "MENTAL HEALTH" and inserting "CERTAIN".

SEC. 6. COLLEGES OF OSTEOPATHIC MEDICINE.

Section 2313(c) of the Public Health Service Act (42 U.S.C. 300cc-13(c)) is amended by inserting "and osteopathic medicine" after "schools of medicine".

SEC. 7. TECHNICAL AMENDMENT CONCERNING TIME PERIOD FOR PAYMENTS TO CERTAIN LENDERS.

Section 733(h)(2) of the Public Health Service Act (42 U.S.C. 294f(h)(2)) is amended by striking out "the eligible institution" and all that follows through the period and inserting in lieu thereof "the Secretary determines that the lender or holder has made reasonable efforts to secure a judgment and collect on the judgment entered into pursuant to this subsection.".

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 1426:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Mar. 21, considered and passed House.
Apr. 19, considered and passed Senate, amended.
June 13, House disagreed to certain Senate amendments and concurred in others.
July 12, Senate receded from certain amendments, from another with an amendment.
July 31, House concurred in Senate amendment.

○

Public Law 101-94
101st Congress

An Act

To amend title 38, United States Code, to establish a retirement and survivor benefit program for judges of the new United States Court of Veterans Appeals, and for other purposes.

Aug. 16, 1989
[H.R. 2727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Court of Veterans Appeals Judges Retirement Act.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Court of Veterans Appeals Judges Retirement Act".

TITLE I—JUDGES RETIREMENT AND SURVIVOR ANNUITY PROGRAM

SEC. 101. JUDGES RETIREMENT PROGRAM.

(a) RETIREMENT SYSTEM.—Chapter 72 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

"§ 4096. Retirement of judges

"(a) For purposes of this section:

"(1) The term 'Court' means the United States Court of Veterans Appeals.

"(2) The term 'judge' means the chief judge or an associate judge of the Court.

"(b)(1) A judge who meets the age and service requirements set forth in the following table may retire:

"The judge has attained age:	And the years of service as a judge are at least
65	15
66	14
67	13
68	12
69	11
70	10

"(2) A judge who is not reappointed following the expiration of the term for which appointed may retire upon the completion of that term if the judge has served as a judge of the Court for 15 years or more. In order to retire under this paragraph, a judge must, not earlier than 9 months preceding the date of the expiration of the judge's term of office and not later than 6 months preceding such date, advise the President in writing that the judge is willing to accept reappointment to the Court.

"(3) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall retire.

"(c)(1) An individual who retires under subsection (b) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall (except as provided in paragraph (2) of this subsection) receive retired pay at the rate of pay in effect at the time of retirement.

"(2) An individual who serves as a judge for less than 10 years and who retires under subsection (b)(3) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall receive retired pay at a rate equal to one-half of the rate of pay in effect at the time of retirement.

"(3) Retired pay under this subsection shall begin to accrue on the day following the day on which the individual's salary as judge ceases to accrue and shall continue to accrue during the remainder of the individual's life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge.

"(d)(1) A judge may elect to receive retired pay under subsection (c) of this section. Such an election—

"(A) may be made only while an individual is a judge (except that, in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, the election may be made at any time before the date after the day on which the individual's successor takes office); and

"(B) may not be revoked after the retired pay begins to accrue.

"(2) In the case of a judge other than the chief judge, such an election shall be made by filing notice of the election in writing with the chief judge. In the case of the chief judge, such an election shall be made by filing notice of the election in writing with the Director of the Office of Personnel Management.

"(3) The chief judge shall transmit to the Director of the Office of Personnel Management a copy of each notice filed with the chief judge under this subsection.

"(e) If an individual for whom an election to receive retired pay under subsection (c) is in effect accepts compensation for employment with the United States, the individual shall, to the extent of the amount of that compensation, forfeit all rights to retired pay under subsection (c) of this section for the period for which the compensation is received.

"(f)(1) Except as otherwise provided in this subsection, the provisions of the civil service retirement laws (including the provisions relating to the deduction and withholding of amounts from basic pay, salary, and compensation) shall apply with respect to service as a judge as if this section had not been enacted.

"(2) In the case of any individual who has filed an election to receive retired pay under subsection (c) of this section—

"(A) no annuity or other payment shall be payable to any person under the civil service retirement laws with respect to any service performed by such individual (whether performed before or after such election is filed and whether performed as judge or otherwise);

"(B) no deduction for purposes of the Civil Service Retirement and Disability Fund shall be made from retired pay payable to that individual under subsection (c) of this section or from any other salary, pay, or compensation payable to that individual, for any period beginning after the day on which such election is filed; and

"(C) such individual shall be paid the lump-sum credit computed under section 8331(8) or 8401(a) of title 5, whichever applies, upon making application therefor with the Office of Personnel Management.

"(g)(1) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall certify to the President in writing that such permanent disability exists. If the chief judge retires for such a disability, the retirement of the chief judge shall not take effect until concurred in by the President. If any other judge retires for such a disability, the chief judge shall furnish to the President a certificate of disability signed by the chief judge.

President of U.S.

"(2) Whenever the President finds that a judge has become permanently disabled and as a result of that disability is unable to perform the duties of the office, the President shall declare that judge to be retired. Before a judge may be retired under this paragraph, the judge shall be provided with a full specification of the reasons for the retirement and an opportunity to be heard.

"(h)(1) An individual who has filed an election to receive retired pay under subsection (c) of this section may revoke such election at any time before the first day on which retired pay would (but for such revocation) begin to accrue with respect to such individual.

"(2) Any revocation under this subsection shall be made by filing a notice of the election in writing with the Director of the Office of Personnel Management. The Office of Personnel Management shall transmit to the chief judge a copy of each notice filed under this subsection.

"(3) In the case of a revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (c) of this section;

"(B) for purposes of section 4097 of this title—

"(i) the individual shall be treated as not having filed an election under section 4097(b) of this title, and

"(ii) section 4097(e) of this title shall not apply and the amount credited to such individual's account (together with interest at 3 percent per year, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to the individual;

"(C) no credit shall be allowed for any service as a judge of the Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest;

"(D) the Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (d); and

"(E) if subparagraphs (C) and (D) of this paragraph are complied with, service on the Court shall be treated as service with respect to which deductions and contributions had been made during the period of service.

"(i)(1) Beginning with the next pay period after the Director of the Office of Personnel Management receives a notice under subsection

(d) of this section that a judge has elected to receive retired pay under this section, the Director shall deduct and withhold 1 percent of the salary of such judge. Amounts shall be so deducted and withheld in a manner determined by the Director. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Court of Veterans Appeals Judges Retirement Fund. Deductions under this subsection from the salary of a judge shall terminate upon the retirement of the judge or upon the completion of 15 years of service for which either deductions under this subsection or a deposit under subsection (j) of this section has been made, whichever occurs first.

"(2) Each judge who makes an election under subsection (d) of this section shall be considered to agree to the deductions from salary which are made under paragraph (1) of this subsection.

"(j) A judge who makes an election under subsection (d) of this section shall deposit, for service on the Court performed before the election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for the first years, not exceeding 15 years, of that service. Retired pay may not be allowed until a deposit required by this subsection has been made.

"(k) The amounts deducted and withheld under subsection (i) of this section, and the amounts deposited under subsection (j) of this section, shall be deposited in the Court of Veterans Appeals Retirement Fund for credit to individual accounts in the name of each judge from whom such amounts are received.

"§ 4097. Survivor annuities

"(a) For purposes of this section:

"(1) The term 'Court' means the United States Court of Veterans Appeals.

"(2) The term 'judge' means the chief judge or an associate judge of the Court.

"(3) The term 'pay' means salary received under section 4053(e) of this title and retired pay received under section 4096(c) of this title.

"(4) The term 'retirement fund' means the Court of Veterans Appeals Retirement Fund established under section 4098 of this title.

"(5) The term 'surviving spouse' means a surviving spouse of an individual who (A) was married to such individual for at least two years immediately preceding the individual's death, or (B) is a parent of issue by the marriage.

"(6) The term 'dependent child' has the meaning given the term 'child' in section 376(a)(5) of title 28.

"(7) The term 'Member of Congress' means a Representative, a Senator, a Delegate to Congress, or the Resident Commissioner of Puerto Rico.

"(b) A judge may become a participant in the annuity program under this section by filing a written election under this subsection while in office. Any such election shall be made in such manner as may be prescribed by the Court.

"(c) There shall be deducted and withheld each pay period from the pay of a judge who has made an election under subsection (b) of this section a sum equal to 3.5 percent of the judge's pay. Amounts so deducted and withheld shall be deposited in the retirement fund. A judge who makes an election under subsection (b) of this section shall be considered by that election to agree to the deductions from the judge's pay required by this subsection.

"(d) A judge who makes an election under subsection (b) of this section shall deposit, with interest at 3 percent per year compounded on December 31 of each year, to the credit of the retirement fund, an amount equal to 3.5 percent of the judge's pay and of the judge's basic salary, pay, or compensation for service as a Member of Congress, and for any other civilian service within the purview of section 8332 of title 5. Each such judge may elect to make such deposits in installments during the judge's period of service in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annual annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless the surviving spouse elects to eliminate such service entirely from credit under subsection (k) of this section. However, a deposit shall not be required from a judge for any year with respect to which deductions from the judge's pay, or a deposit, were actually made (and not withdrawn) under the civil service retirement laws.

"(e) If the service of a judge who makes an election under subsection (b) of this section terminates other than pursuant to the provisions of section 4096 of this title, or if any judge ceases to be married after making the election under subsection (b) of this section and revokes (in a writing filed as provided in subsection (b) of this section) such election, the amount credited to the judge's individual account (together with interest at 3 percent per year compounded on December 31 of each year to the date of the judge's relinquishment of office) shall be returned to the judge. For the purpose of this section, the service of a judge making an election under subsection (b) of this section shall be considered to have terminated pursuant to section 4096 of this title if—

"(1) the judge is not reappointed following expiration of the term for which appointed; and

"(2) at or before the time of the expiration of that term, the judge is eligible for and elects to receive retired pay under section 4096 of this title.

"(f)(1) If a judge who makes an election under subsection (b) of this section dies after having rendered at least 5 years of civilian service (computed as prescribed in subsection (l) of this section), for the last 5 years of which the salary deductions provided for by subsection (c) of this section or the deposits required by subsection (d) of this section have actually been made (and not withdrawn) or the salary deductions required by the civil service retirement laws have actually been made (and not withdrawn)—

"(A) if the judge is survived by a surviving spouse but not by a dependent child, there shall be paid to the surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (k) of this section; or

"(B) if the judge is survived by a surviving spouse and a dependent child or children, there shall be paid to the surviving spouse an immediate annuity in an amount computed as provided in subsection (k) of this section and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

"(ii) 20 percent of such average annual pay, divided by the number of such children; or

"(C) if the judge is not survived by a surviving spouse but is survived by a dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

"(ii) 40 percent of such average annual pay, divided by the number of such children.

"(2) The annuity payable to a surviving spouse under this subsection shall be terminated—

"(A) upon the surviving spouse's death; or

"(B) upon the remarriage of the surviving spouse before age 55.

"(3) The annuity payable to a child under this subsection shall be terminated upon the child's death.

"(4) In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving the spouse, the annuity of such child or children under paragraph (1)(B) of this subsection shall be recomputed and paid as provided in paragraph (1)(C) of this subsection. In any case in which the annuity of a dependent child is terminated, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived the judge.

"(g) Questions of family relationships, dependency, and disability arising under this section shall be determined in the same manner as such questions arising under chapter 84 of title 5 are determined.

"(h)(1) If—

"(A) a judge making an election under subsection (b) of this section dies while in office (i) before having rendered 5 years of civilian service computed as prescribed in subsection (l) of this section, or (ii) after having rendered 5 years of such civilian service but without a survivor entitled to annuity benefits provided by subsection (f) of this section; or

"(B) the right of all persons entitled to an annuity under subsection (f) of this section based on the service of such judge terminates before a claim for such benefits has been established,

the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year, to the date of the death of such judge) shall be paid in the manner specified in paragraph (2) of this subsection.

"(2) An amount payable under paragraph (1) of this subsection shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

"(A) To the beneficiary or beneficiaries whom the judge designated in writing filed before death with the chief judge (except that in the case of the chief judge such designation shall be filed before death as prescribed by the Court).

"(B) To the surviving spouse of the judge.

"(C) To the child or children of the judge (and the descendants of any deceased children by representation).

"(D) To the parents of the judge or the survivor of them.

"(E) To the executor or administrator of the estate of the judge.

"(F) To such other next of kin of the judge as may be determined by the chief judge to be entitled under the laws of the domicile of the judge at the time of the judge's death.

"(3) Determination as to the surviving spouse, child, or parent of a judge for the purposes of paragraph (2) of this subsection shall be made without regard to the definitions in subsection (a) of this section.

"(4) Payment under this subsection in the manner provided in this subsection shall be a bar to recovery by any other person.

"(5) In a case in which the annuities of all persons entitled to annuity based upon the service of a judge terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year to the date of the death of the judge), the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (2) of this subsection.

"(6) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any individual based upon the service of a judge shall be paid to that individual. Any accrued annuity remaining unpaid upon the death of an individual receiving an annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

"(A) To the executor or administrator of the estate of that person.

"(B) After 30 days after the date of the death of such individual, to such individual or individuals as may appear in the judgment of the chief judge to be legally entitled thereto.

Such payment shall be a bar to recovery by any other individual.

"(i) When a payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, the payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or the claimant's estate.

"(j) Annuities under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity has accrued. An annuity under this section is not assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

"(k)(1) The annuity of the surviving spouse of a judge making an election under subsection (b) of this section shall be an amount equal to the sum of the following:

"(A) The product of—

"(i) 1.5 percent of the judge's average annual pay; and

"(ii) the sum of the judge's years of judicial service, the judge's years of prior allowable service as a Member of Congress, the judge's years of prior allowable service performed as a member of the Armed Forces, and the judge's years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 2107 of title 5).

"(B) Three-fourths of 1 percent of the judge's average annual pay multiplied by the judge's years of allowable service not counted under subparagraph (A) of this paragraph.

"(2) An annuity computed under this subsection may not exceed 50 percent of the judge's average annual pay and may not be less than 25 percent of such average annual pay. Such annuity shall be further reduced in accordance with subsection (d) of this section (if applicable).

"(3) For purposes of this subsection, the term 'average annual pay', with respect to a judge, means the average annual pay received by the judge for judicial service (including periods in which the judge received retired pay under section 4096(d) of this title) or for any other prior allowable service during the period of three consecutive years in which the judge received the largest such average annual pay.

"(l) Subject to subsection (d) of this section, the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of the judge's surviving spouse shall include the judge's years of service as a judge of the Court, the judge's years of service as a Member of Congress, the judge's years of active service as a member of the Armed Forces not exceeding 5 years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and the judge's years of any other civilian service within the purview of section 8332 of title 5.

"(m) Nothing contained in this section shall be construed to prevent a surviving spouse eligible therefor from simultaneously receiving an annuity under this section and any annuity to which such spouse would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of such spouse's annuity under this section shall not be credited.

"(n) A judge making an election under subsection (b) of this section shall, at the time of such election, waive all benefits under the civil service retirement laws. Such a waiver shall be made in the same manner and shall have the same force and effect as an election filed under section 4096(d) of this title.

"(o) Whenever the salaries of judges paid under section 4053(e) of this title are increased, each annuity payable from the retirement fund which is based, in whole or in part, upon a deceased judge having rendered some portion of that judge's final 18 months of service as a judge of the Court, shall also be increased. The amount of the increase in the annuity shall be determined by multiplying the amount of the annuity on the date on which the increase in salaries becomes effective by 3 percent for each full 5 percent by which those salaries were increased.

"§ 4098. Court of Veterans Appeals Retirement Fund

"(a) There is established in the Treasury a fund known as the Court of Veterans Appeals Retirement Fund.

"(b) Amounts in the fund are available for the payment of judges' retired pay under section 4096 of this title and of annuities, refunds, and allowances under section 4097 of this title.

"(c) Amounts deposited by, or deducted and withheld from the salary and retired pay of, a judge under section 4096 or 4097 of this title shall be deposited in the fund and credited to an individual account of the judge.

"(d) The chief judge of the Court of Veterans Appeals shall submit to the President an annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

"(e)(1) The chief judge may cause periodic examinations of the retirement fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose.

"(2)(A) Subject to the availability of appropriations, there shall be deposited in the Treasury to the credit of the retirement fund, not later than the close of each fiscal year, such amounts as may be required to reduce to zero the unfunded liability (if any) of the fund. Such deposits shall be taken from sums available for that fiscal year for the payment of the expenses of the Court.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'unfunded liability', with respect to any fiscal year, means the amount estimated by the chief judge to be equal to the excess (as of the close of that fiscal year) of—

"(i) the present value of all benefits payable from the fund (determined on an annual basis in accordance with section 9503 of title 31), over

"(ii) the sum of—

"(I) the present values of future deductions under sections 4096(i) and 4097(c) of this title and future deposits under sections 4096(j) and 4096(d) of this title, and

"(II) the balance in the fund as of the close of the fiscal year.

"(C) Amounts deposited in the retirement fund under this paragraph shall not be credited to the account of any individual.

Securities.

"(f) The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States, such portions of the retirement fund as in such Secretary's judgment may not be immediately required for payments from the fund. The income derived from such investments shall constitute a part of the fund.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 72 of such title is amended by adding at the end the following:

"SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

"4096. Retirement of judges.
"4097. Survivor annuities.
"4098. Court of Veterans Appeals Retirement Fund.".

SEC. 102. CONFORMING AMENDMENTS.

(a) Civil Service Retirement System.—Section 8334(i) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of law, a judge who is covered by section 4096 of title 38 shall not be subject to deductions and contributions to the Fund, if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.".

(b) Federal Employees Retirement System.—Section 8402 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(f) A judge who is covered by section 4096 of title 38 shall be excluded from the operation of this chapter if the judge notifies the Director of the Office of Personnel Management of an election of a retirement annuity under that section. Upon such election, the judge shall be entitled to a lump-sum credit under section 8424 of this title.".

(c) Standards for Removal of Judges.—Section 4053(f)(1) of title 38, United States Code, is amended in the first sentence—

(1) by inserting "or" before "engaging"; and

(2) by striking out "law," and all that follows in that sentence and inserting in lieu thereof "law.".

TITLE II—PROVISIONS RELATING TO ESTABLISHMENT OF COURT OF VETERANS APPEALS

38 USC 4055 note.

SEC. 201. FACILITIES FOR THE COURT.

(a) Space in the District of Columbia.—The Administrator of General Services shall provide suitable building space in the District of Columbia for the United States Court of Veterans Appeals as the Court's principal place of business. The Administrator shall, if necessary, arrange for temporary space for the Court if permanent space is not immediately available for the Court. The Administrator shall place a high priority on the provision of such temporary and permanent space for the Court.

(b) Approval by Court.—Any space to be provided for the Court of Veterans Appeals under subsection (a) must be acceptable to the Court.

(c) Additional Requirement.—Any building space provided to the Court under subsection (a) shall be adjacent to additional building space (in an amount acceptable to the Court) that can be made available to the Court in the future if needed for expansion of the facilities of the Court.

38 USC 4066 note.

SEC. 202. INTERIM PROVISION FOR FILING NOTICES OF APPEAL.

In the case of a person adversely affected by a final decision of the Board of Veterans' Appeals that is made before the date on which the United States Court of Veterans Appeals has caused to be published in the Federal Register a notice by the Court that it has commenced operations, the period prescribed under section 4066 of title 38, United States Code, within which a notice of appeal must be filed with the Court shall be extended to the end of the 30-day period beginning on the date such notice is published, if the end of that period is later than the date that would otherwise be applicable under such section.

SEC. 203. INTERIM RULES OF THE COURT.

38 USC 4064 note.

The Federal Rules of Appellate Procedure (28 U.S.C. App.) shall be the interim rules of the United States Court of Veterans Appeals unless otherwise provided by the Court in accordance with chapter 72 of title 38, United States Code. If there is a conflict between a provision of the Federal Rules of Appellate Procedure and the procedures set forth in chapter 72 of title 38, United States Code, the procedures set forth in such chapter shall apply.

SEC. 204. EMPLOYEES OF THE COURT.

(a) EMPLOYMENT AUTHORITY.—Section 4081 of title 38, United States Code, is amended to read as follows:

"§ 4081. Employees

"(a) The Court of Veterans Appeals may appoint a clerk without regard to the provisions of title 5 governing appointments in the competitive service. The clerk shall serve at the pleasure of the Court.

"(b) The judges of the Court may appoint law clerks and secretaries, in such numbers as the Court may approve, without regard to the provisions of title 5 governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

"(c) The clerk, with the approval of the Court, may appoint necessary deputies and employees without regard to the provisions of title 5 governing appointments in the competitive service.

"(d) The Court may fix and adjust the rates of basic pay for the clerk and other employees of the Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5. To the maximum extent feasible, the Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

"(e) In making appointments under subsections (a) through (c) of this section, preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

"(f) The Court may procure the services of experts and consultants under section 3109 of title 5.

"(g) The Chief Judge of the Court may exercise the authority of the Court under this section whenever there are not at least two associate judges of the Court.

"(h) The Court shall not be considered to be an agency within the meaning of section 3132(a)(1) of title 5.".

(b) LIMITATION ON CONVERSION OF EMPLOYEES TO COMPETITIVE SERVICE.—Notwithstanding clause (1)(A) of the proviso under the heading "Court of Veterans Appeals" in chapter XI of Public Law 101-45, no employee of the United States Court of Veterans Appeals may be converted to the competitive service without the approval of the Court.

38 USC 4081 note.

(c) EFFECTIVE DATE.—Notwithstanding section 401 of the Veterans' Judicial Review Act, the authority provided by section 4081 of title 38, United States Code, as amended by subsection (a), shall take effect on the date of the enactment of this Act.

38 USC 4081 note.

TITLE III—TECHNICAL CORRECTIONS

SEC. 301. EFFECTIVE DATE FOR NEW RULE FOR REOPENING BOARD OF VETERANS' APPEALS DISALLOWED CASES.

Section 401(d) of the Veterans' Judicial Review Act (Public Law 100-687; 102 Stat. 4122) is amended to read as follows:

38 USC 4051 note.

"(d) BOARD OF VETERANS' APPEALS.—Sections 202, 203, 205, 206, and 207 shall take effect as of January 1, 1989. Section 204 shall take effect on September 1, 1989.".

SEC. 302. OTHER TECHNICAL AMENDMENTS.

(a) CROSS-REFERENCE TO NEW SECTION.—Section 3301(b)(1) of title 38, United States Code, is amended by striking out "section 4009" and inserting in lieu thereof "section 3009 or 4009".

(b) REVIEW OF COURT DECISIONS.—Section 4092(d)(1) of such title is amended by striking out "statute or".

38 USC 3301 note.

(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsections (a) and (b) shall take effect as if included in the Veterans' Judicial Review Act.

(d) REDESIGNATION OF DUPLICATE SECTION NUMBER.—(1) The section 223 of title 38, United States Code, added by section 203(b)(1) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 509) is redesignated as section 224.

(2) The item relating to that section in the table of sections at the beginning of chapter 3 of that title is revised to reflect the redesignation made by paragraph (1).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. NONCAREER APPOINTMENTS IN DEPARTMENT OF VETERANS AFFAIRS.

38 USC 201 note.

Section 12(c)(2) of the Department of Veterans Affairs Act (Public Law 100-527; 102 Stat. 2642) is amended—

(1) by inserting "(A)" before "any person"; and

(2) by inserting before the period at the end the following: ", or (B) any person to (i) a Senior Executive Service position as a noncareer appointee, or (ii) a position which is excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of the position".

SEC. 402. ACTING CHIEF JUDGE IN EVENT OF VACANCY.

Section 4054 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) In the event of a vacancy in the position of chief judge of the Court, the associate judge senior in service on the Court shall serve as acting chief judge unless the President designates one of the other associate judges to serve as acting chief judge, in which case the judge so designated shall serve as acting chief judge.".

Approved August 16, 1989.

LEGISLATIVE HISTORY—H.R. 2727 (S. 1243):

HOUSE REPORTS: No. 101-189 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 101-86 accompanying S. 1243 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 31, considered and passed House.
Aug. 3, considered and passed Senate in lieu of S. 1243.

○

Public Law 101-95
101st Congress

Joint Resolution

Sept. 13, 1989
[S.J. Res. 109]

To designate the period commencing September 11, 1989, and ending on September 15, 1989, as "National Historically Black Colleges Week".

Whereas there are 107 Historically Black Colleges and Universities in the United States;
Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;
Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;
Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and
Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 11, 1989, and ending on September 15, 1989, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

Approved September 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 109:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 12, considered and passed House.

○

Public Law 101-96
101st Congress

Joint Resolution

Designating September 1 through 30, 1989 as "National Alcohol and Drug Treatment Month".

Sept. 15, 1989
[S.J. Res. 132]

Whereas alcohol and other drug abuse and dependence are major public health problems that are preventable and treatable;

Whereas the economic costs to society of alcohol and drug abuse in 1983 alone were over $176,000,000,000;

Whereas alcohol and drug abuse treatment provides an effective means toward independence from substance dependence and is a necessary element in solving the problems associated with alcohol and other drug abuse;

Whereas more than one-third of the families of the Nation are affected by alcoholism and an estimated 10,000,000 Americans are problem drinkers or alcoholics;

Whereas alcohol abuse during pregnancy is one of the leading causes in the Nation of mental retardation in infants and is the only preventable cause;

Whereas over 70 percent of the pediatric acquired immunodeficiency syndrome cases are related to intravenous drug use by one or both parents of the infant;

Whereas drug abuse treatment is an effective way of preventing the spread of AIDS among intravenous drug abusers;

Whereas alcoholism and drug dependence are illnesses requiring prevention, treatment, and rehabilitation through the assistance and cooperation of a broad range of Federal, State, and local health, law enforcement, and social service agencies, families, employers, employees, and organizations concerned about alcohol and other drug abuse; and

Whereas despite our national policy goal of making treatment available to all who request it, the existence of waiting lists highlights the need to increase the availability and quality of alcohol and other drug treatment services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1 through 30, 1989 is designated "National Alcohol and Drug Treatment Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved September 15, 1989.

LEGISLATIVE HISTORY—S.J. Res. 132:

CONGRESSIONAL RECORD, Vol. 135 (1989):
July 13, considered and passed Senate.
Sept. 7, considered and passed House.

○

Public Law 101-97
101st Congress

An Act

To amend the District of Columbia Code to limit the length of time for which an individual may be incarcerated for civil contempt in the course of a child custody case in the courts of the District of Columbia, and for other purposes.

Sept. 23, 1989
[H.R. 2136]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Civil Contempt Imprisonment Limitation Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Civil Contempt Imprisonment Limitation Act of 1989".

SEC. 2. LIMITATION ON TERM OF INCARCERATION IMPOSED FOR CIVIL CONTEMPT IN CHILD CUSTODY CASES.

(a) SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.—Section 11-944 of the District of Columbia Code is amended—

(1) by striking "In addition" and inserting "(a) Subject to the limitation described in subsection (b), and in addition"; and

(2) by adding at the end the following new subsection:

"(b)(1) In any proceeding for custody of a minor child conducted in the Family Division of the Superior Court under paragraph (1) or (4) of section 11-1101, no individual may be imprisoned for civil contempt for more than 12 months (except as provided in paragraph (2)), pursuant to the contempt power described in subsection (a), for disobedience of an order or for contempt committed in the presence of the court. This limitation does not apply to imprisonment for criminal contempt or for any other criminal violation.

"(2) Notwithstanding the provisions of paragraph (1), an individual who is charged with criminal contempt pursuant to paragraph (3) may continue to be imprisoned for civil contempt until the completion of such individual's trial for criminal contempt, except that in no case may such an individual be imprisoned for more than 18 consecutive months for civil contempt pursuant to the contempt power described in subsection (a).

"(3)(A) An individual imprisoned for 6 consecutive months for civil contempt for disobedience of an order in a proceeding described in paragraph (1) who continues to disobey such order may be prosecuted for criminal contempt for disobedience of such order at any time before the expiration of the 12-month period that begins on the first day of such individual's imprisonment, except that an individual so imprisoned as of the date of the enactment of this subsection may be prosecuted under this subsection at any time during the 90-day period that begins on the date of the enactment of this subsection.

"(B) The trial of an individual prosecuted for criminal contempt pursuant to this paragraph—

"(i) shall begin not later than 90 days after the date on which such individual is charged with criminal contempt;

"(ii) shall, upon the request of the individual, be a trial by jury; and "(iii) may not be conducted before the judge who imprisoned the individual for disobedience of an order pursuant to subsection (a).".

(b) DISTRICT OF COLUMBIA COURT OF APPEALS.—Section 11-741 of the District of Columbia Code is amended—

(1) by striking "In addition" and inserting "(a) Subject to the limitation described in subsection (b), and in addition"; and

(2) by adding at the end the following new subsection:

"(b)(1) In the hearing of an appeal from an order of the Superior Court of the District of Columbia regarding the custody of a minor child conducted in the Family Division of the Superior Court under paragraph (1) or (4) of section 11-1101, no individual may be imprisoned for civil contempt for more than 12 months (except as provided in paragraph (2)), pursuant to the contempt power described in subsection (a), for disobedience of an order or for contempt committed in the presence of the court. This limitation does not apply to imprisonment for criminal contempt or for any other criminal violation.

"(2) Notwithstanding the provisions of paragraph (1), an individual who is charged with criminal contempt pursuant to paragraph (3) may continue to be imprisoned for civil contempt until the completion of such individual's trial for criminal contempt, except that in no case may such an individual be imprisoned for more than 18 consecutive months for civil contempt pursuant to the contempt power described in subsection (a).

"(3)(A) An individual imprisoned for 6 consecutive months for civil contempt for disobedience of an order in a proceeding described in paragraph (1) who continues to disobey such order may be prosecuted for criminal contempt for disobedience of such order at any time before the expiration of the 12-month period that begins on the first day of such individual's imprisonment, except that an individual so imprisoned as of the date of the enactment of this subsection may be prosecuted under this subsection at any time during the 90-day period that begins on the date of the enactment of this subsection.

"(B) The trial of an individual prosecuted for criminal contempt pursuant to this paragraph—

"(i) shall begin not later than 90 days after the date on which such individual is charged with criminal contempt;

"(ii) shall, upon the request of the individual, be a trial by jury; and

"(iii) may not be conducted before the judge who imprisoned the individual for disobedience of an order pursuant to subsection (a).".

SEC. 3. EXPEDITED APPEALS PROCESS FOR INDIVIDUALS INCARCERATED FOR CONTEMPT IN CHILD CUSTODY CASES.

Section 11-721 of the District of Columbia Code is amended by adding at the end the following new subsection:

"(f) The District of Columbia Court of Appeals shall hear an appeal from an order of the Superior Court of the District of Columbia holding an individual in contempt and imposing the sanction of imprisonment on such individual in the course of a case for custody of a minor child not later than 60 days after such individual requests that an appeal be taken from that order.".

SEC. 4. REPORTS ON CIVIL CONTEMPT PROCEDURES.

(a) In General.—(1) The Committee on Governmental Affairs of the Senate, together with the Committee on the District of Columbia of the House of Representatives, shall conduct a study of current law and procedures with respect to civil contempt in the courts of the District of Columbia.

(2) The Committee on the Judiciary of the Senate shall conduct a study of current law and procedures with respect to civil contempt in the courts of the United States.

(b) Submission of Reports.—Not later than September 1, 1990, the Committees on Governmental Affairs and the Judiciary of the Senate shall each submit a report on the study conducted by each Committee under subsection (a), and shall include in such report any recommendations regarding changes in current law.

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 2 and 3 shall apply with respect to any individual imprisoned before the expiration of the 18-month period that begins on the date of the enactment of this Act for disobedience of an order or for contempt committed in the presence of the Superior Court of the District of Columbia or the District of Columbia Court of Appeals.

Approved September 23, 1989.

LEGISLATIVE HISTORY—H.R. 2136 (S. 1163):

HOUSE REPORTS: No. 101-98 (Comm. on the District of Columbia).
SENATE REPORTS: No. 101-104 accompanying S. 1163 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, 28, considered and passed House.
Sept. 7, considered and passed Senate, amended, in lieu of S. 1163.
Sept. 20, House concurred in Senate amendment with amendments.
Sept. 21, Senate concurred in House amendments.

○

Public Law 101-98
101st Congress

Joint Resolution

Sept. 26, 1989
[H.J. Res. 133]

Designating the week beginning September 17, 1989, as "Emergency Medical Services Week".

Whereas the members of emergency medical services teams devote their lives to saving the lives of others;

Whereas emergency medical services teams consist of emergency physicians, nurses, emergency medical technicians, paramedics, educators, and administrators;

Whereas the people of the United States benefit daily from the knowledge and skill of these trained individuals;

Whereas advances in emergency medical care increase the number of lives saved every year;

Whereas the professional organizations of providers of emergency medical services promote research to improve emergency medical care;

Whereas the members of emergency medical services teams work together to improve and adapt their skills as new methods of emergency treatment are developed;

Whereas the members of emergency medical services teams encourage national standardization of training and testing of emergency medical personnel and reciprocal recognition of training and credentials by the States;

Whereas the designation of Emergency Medical Services Week will serve to educate the people of the United States about accident prevention and what to do when confronted with a medical emergency; and

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services teams by designating Emergency Medical Services Week: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 17, 1989, is designated as "Emergency Medical Services Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 26, 1989.

LEGISLATIVE HISTORY—H.J. Res. 133 (S.J. Res 175):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 14, considered and passed House.
Sept. 18, considered and passed Senate.

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Public Law 101-99
101st Congress

An Act

To authorize appropriations for the American Folklife Center for fiscal years 1990, 1991, and 1992.

Sept. 26, 1989
[S. 1075]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended—

(1) by striking out "and" after "1988"; and

(2) by inserting after "1989" the following: ", $998,000 for the fiscal year ending September 30, 1990, $1,050,100 for the fiscal year ending September 30, 1991, and $1,120,000 for the fiscal year ending September 30, 1992".

Approved September 26, 1989.

LEGISLATIVE HISTORY—S. 1075 (H.R. 2346):

HOUSE REPORTS: No. 101-134 accompanying H.R. 2346 (Comm. on House Administration).
SENATE REPORTS: No. 101-30 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 2, considered and passed Senate.
Sept. 12, H.R. 2346 considered and passed House; proceedings vacated and S. 1075 passed in lieu.

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PUBLIC LAW 101-100—SEPT. 29, 1989

CONTINUING APPROPRIATIONS, FISCAL YEAR 1990

39-139 O - 89 (100)

Public Law 101-100
101st Congress

Joint Resolution

Sept. 29, 1989
[H.J. Res. 407]

Making continuing appropriations for the fiscal year 1990, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1990, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1989 and for which appropriations, funds or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948, as amended;

The Department of Defense Appropriations Act, 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1990;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1990;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990;

The Legislative Branch Appropriations Act, 1990;

The Military Construction Appropriations Act, 1990;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990;

The Department of Transportation and Related Agencies Appropriations Act, 1990;

The Treasury, Postal Service, and General Government Appropriations Act, 1990; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990.

(b) Appropriations made by this section shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(c) No appropriation or funds made available or authority granted pursuant to this section shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1989.

(d) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1989, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1989, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1989, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1989: *Provided further,* That congressional operations—Senate shall be continued under the appropriation, fund, or authority granted by the Act passed by the Senate, at a rate for operations not exceeding the rate permitted by the action of the Senate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1989.

(e) Whenever an Act listed in this section has been passed by only the House as of October 1, 1989, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1989: *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1989 and not included in the version passed by the House as of October 1, 1989, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1989, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1989.

(f) No provision which is included in an appropriations Act enumerated in this section but which was not included in the applicable appropriations Act for fiscal year 1989, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

(g) No appropriation or funds made available or authority granted pursuant to this section for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1989 or prior years, for the increase in production rates above those sustained with fiscal year 1989 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1989: *Provided,* That no appropriation or funds made available or authority granted pursuant to this section for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

(h) Such amounts as may be necessary for projects or activities provided for in the Energy and Water Development Appropriations Act, 1990, at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (H. Rept. No. 101-235) adopted in the House of Representatives on September 12, 1989, and in the Senate on September 14, 1989.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 25, 1989, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriations Act for the fiscal year 1990 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 106. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 107. For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,108,000,000 for fiscal year 1989, to remain available until expended.

Approved September 29, 1989.

LEGISLATIVE HISTORY—H.J. Res. 407:

HOUSE REPORTS: No. 101-249 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Sept. 26, considered and passed House.
  Sept. 28, considered and passed Senate, amended. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  Sept. 29, Presidential remarks and statement.

○

Public Law 101-101
101st Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1990, and for other purposes.

Sept. 29, 1989
[H.R. 2696]

Energy and Water Development Appropriations Act, 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1990, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

General Investigations

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $131,086,000, to remain available until expended: *Provided,* That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1990 in the amounts specified:

Rillito River, Arizona, $350,000;
Antelope Creek, Lincoln, Nebraska, $100,000;
Elm Creek, Nebraska, $75,000;
Jeffersonville, Indiana, $125,000;
Red River Waterway, Shreveport, Louisiana, to Dangerfield, Texas, $750,000;
Sainte Genevieve, Missouri, $50,000;
Missouri River Fish and Wildlife Mitigation, Iowa, Nebraska, Kansas, and Missouri, $300,000;
Lake George, Hobart, Indiana, $100,000:

Provided further, That not to exceed $25,500,000 shall be available for obligation for research and development activities: *Provided further,* That $50,000 of the funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers, to initiate and complete a reconnaissance phase study of roadway access problems at Fishtrap Lake, Kentucky, and the purchase of property from willing sellers and relocation of owners of property so purchased: *Provided further,* That with funds appropriated in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate preconstruction engineering and design for construction of a bridge at Floyd's Fork, on Routt Road at Taylorsville Lake, Kentucky: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use, immediately upon enactment of this Act, $125,000 of the funds appropriated herein to accomplish detailed planning of the Wabash Valley Scenic Corridor at Lafayette, Indiana, under the authorized Wabash River Basin Comprehensive Study: *Provided further,* That within available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete a reconnaissance study for the Saint Lawrence Seaway and Great Lakes-Financing Navigational Improvements Study, as authorized in section 47(d) of Public Law 100-676, in accordance with the cost sharing provisions of Public Law 99-662: *Provided further,* That $150,000 of the funds herein appropriated for the Eastern North Carolina above Cape Lookout, North Carolina, study, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to conduct basic hydrologic, water quality, and land use studies of the Albemarle and Pamlico Sounds in support of the Albemarle-Pamlico Estuarine study under the National Estuarine Study Program: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, using $100,000 of the funds herein appropriated, is directed to complete preconstruction engineering and design necessary to prepare the Big and Little Sallisaw Creeks, Oklahoma, project, authorized by the Water Resources Development Act of 1976, for construction: *Provided further,* That with funds appropriated in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete a study to determine the feasibility of the Winton Woods, Mill Creek Lake, Ohio, project under authority of section 1135 of the Water Resources Development Act of 1986: *Provided further,* That $90,000 of the funds herein appropriated shall be used by the Army Corps of Engineers to complete a comprehensive reconnaissance study of coastal erosion controls for the Portuguese Bend landslide in the immediate, urban Los Angeles, California, area: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize funds previously appropriated under the Flood Control, Mississippi River and Tributaries account to prepare the most cost effective plan to provide the authorized level of protection for flood damage reduction for the entire city of West Memphis, Arkansas, and vicinity, without regard to frequency of flooding, drainage area, and amount of runoff: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize previously appropriated funds together with funds appropriated herein to complete in fiscal year 1990 the engineering and design on the Port Sutton Channel, Tampa Harbor, Florida, project: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 of the funds appropriated herein for preconstruction engineering and design of structures to restore the riverbed gradient in the vicinity

33 USC 988 note.

of Mile 206 of the Sacramento River, California, in accordance with the plan contained in a Final Feasibility Report, dated 1989, by the Glenn Colusa Irrigation District and the California Department of Fish and Game, on Fish Protection and Gradient Control Facilities: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of the funds appropriated under this heading for a comprehensive reconnaissance study to determine what improvements in the interest of water quality and environmental enhancement are advisable for Onondaga Lake, New York.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, alteration and removal of obstructive bridges, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $997,400,000, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended: *Provided,* That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1990 in the amounts specified:

Beaver Lake, Arkansas (Water Quality Enhancement), $1,100,000;

Red River Emergency Bank Protection, Arkansas and Louisiana, $2,000,000;

Manatee County, Florida, $5,000,000;

Maalaea Small Boat Harbor, Hawaii, $600,000;

Little Calumet River, Indiana, $2,400,000;

Ouachita River Levees, including Bawcomville Levee, Louisiana, $400,000;

Westwego to Harvey Canal, Louisiana, Hurricane Protection, $1,100,000;

Atlantic Coast of Maryland, Maryland, $8,200,000;

Cape Girardeau-Jackson, Missouri, $500,000;

Missouri National Recreation River, Nebraska and South Dakota, $620,000;

Papillion Creek and Tributaries, Nebraska, $2,500,000;

Great Egg Harbor Inlet and Peck Beach, New Jersey, $250,000;

Shinnecock Inlet, New York, $5,300,000;

Roanoke River Upper Basin, Virginia, $200,000;

Kissimmee River, Florida, $4,000,000;

Sarasota County, Florida, $2,000,000;

Roseau River (Duxby Levee), Minnesota, $200,000;

Trimble Wildlife Area, Smithville Lake, Little Platte River, Missouri, $1,570,000;

Acequias Irrigation System, New Mexico, $2,000,000;

Grays Harbor, Washington, $13,000,000;

Small Boat Harbor, Buffalo Harbor, New York, $1,000,000: *Provided further,* That notwithstanding section 902 of the Water Resources Development Act of 1986, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Guadalupe River flood control project in the San Jose area using $750,000 of the funds herein appropriated: *Provided further,* That with $4,000,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to award a continuing contract for levee/floodwall construction and to continue, by continuing contracts, other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further,* That with $17,000,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further,* That with $7,850,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake structural and nonstructural flood protection measures at Matewan, West Virginia: *Provided further,* That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, Matewan, West Virginia, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further,* That with $1,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed, notwithstanding section 903(a) of the Water Resources Development Act of 1986, to construct the Mound State Park, Moundville, Alabama, project, authorized by section 608(a) of the Water Resources Development Act of 1986, in accordance with the General Design Memorandum number 1 (April 1988) of the Mobile District Engineer, and the non-Federal share of this project shall be 25 percent: *Provided further,* That with $1,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed, notwithstanding section 903(a) of the Water Resources Development Act of 1986, to construct the Fort Toulouse, Elmore County, Alabama, project, authorized by section 608(b) of the Water Resources Development Act of 1986, in accordance with the General Design Memorandum number 1 (April 1988) of the Mobile District Engineer, and the non-Federal share of this project shall be 25 percent: *Provided further,* That, notwithstanding section 903(a) of the Water Resources Development Act of 1986, $500,000 of the funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers, for construction of the Satilla River Basin, Georgia, project, authorized by section 1151 of Public Law 99-662: *Provided further,* That using $415,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed, immediately upon enactment of this Act, to initiate a program of applied research, in cooperation with the Tennessee Valley Authority, to help resolve the aquatic plant problem in Guntersville Lake, Tennessee River, Alabama, in accordance with the research provisions of the aquatic plant control program authorized in section 302 of Public Law 89-298: *Provided further,* That using $1,500,000 of the funds herein appropriated the

Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the O'Hare Reservoir, Elk Grove Township, Illinois, as authorized in section 401(a) of Public Law 99-662 with cost sharing in accordance with the percentages specified in section 103(a) of the Water Resources Development Act of 1986: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate remedial work on the Sacramento River Flood Control Project levees in the Sacramento Metropolitan Area with $3,000,000 herein appropriated for that purpose: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate design and construction of the Waterloo Bridges in Waterloo, Iowa, in accordance with section 835 of the Water Resources Development Act of 1986 using funds appropriated in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371 and the Act making further continuing appropriations for the fiscal year ending September 30, 1988, Public Law 100-202: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $9,900,000 of the total sum appropriated herein for design, testing, and construction in fiscal year 1990 of juvenile fish bypass facilities at the Little Goose, Lower Granite, McNary, Lower Monumental, Ice Harbor and The Dalles projects on the Columbia and Snake Rivers as described in the report accompanying this Act: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction of the Maumee Bay State Park, Ohio, Shoreline Protection and Beach Restoration project, using funds appropriated in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371, and the non-Federal sponsor shall share the cost of the project in accordance with the cost sharing requirements of the Water Resources Development Act of 1986, Public Law 99-662: *Provided further*, That using funds appropriated in the Energy and Water Development Appropriation Act, 1988, Public Law 100-202, the Secretary of the Army, acting through the Chief of Engineers, shall make $150,000 available to the Kankakee River project in Illinois to acquire an icebreaking boat and equipment to be loaned to the city of Wilmington, Illinois, for a period of at least three years in accordance with section 1101(b) of the Public Law 99-662 (100 Stat. 4224): *Provided further*, That, notwithstanding section 903(a) of the Water Resources Development Act of 1986, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Hamlet City Lake, Hamlet, North Carolina, project using $3,200,000 of the funds herein appropriated: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $500,000 of the funds appropriated herein to complete a reassessment of the Manteo (Shallowbag) Bay, North Carolina, project, including a reanalysis of a sand-bypass system and the effect of stabilization measures undertaken by the State of North Carolina on the overall project: *Provided further*, That using funds previously appropriated and $13,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to construct Highway 415, Segment "C" at the Saylorville Lake, Iowa, project in accordance with terms of the relocations contract executed on June 21, 1984, between the United States Army Corps of Engineers Rock Island District Engineer and the State of Iowa: *Provided further*, That with $1,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete the one-time repair and rehabilitation of the Maeystown Creek gravity drainage structure through the project levee of the Harrisonville and Ivy Landing Drainage and Levee District, number 2, Illinois, subject to the cost-sharing provisions of Public Law 99-662: *Provided further,* That with $4,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to resume construction on the Wallisville Lake project in Texas, and to award continuing contracts until construction is complete under the terms and conditions signed in 1967 between the Trinity River Authority of Texas, the city of Houston, the Chambers-Liberty Counties Navigation District, and the Corps of Engineers, and as provided for in Public Law 98-63: *Provided further,* That with $5,000,000 heretofore or herein appropriated for the Cooper Lake and Channels project in Texas, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts in fiscal year 1990 at full Federal expense for additional recreation facilities at an estimated cost of $17,000,000 not exclusive to South Sulphur and Doctors Creek Parks, as is acceptable to the State of Texas: *Provided further,* That the Secretary of the Army is authorized and directed to immediately begin a reconnaissance study of the Cuyahoga River in accordance with the provisions of Public Law 99-662 using funds previously appropriated for the Cleveland Harbor, Ohio, project: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall use $300,000 of the funds appropriated under this heading for a flood control project on Loves Park Creek, Loves Park and vicinity, Illinois, as authorized by Public Law 99-662, section 401; and, in addition, $101,800,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project and for compliance with the directions given to the Secretary of the Army in the fiscal year 1988 and 1989 Energy and Water Development Acts, Public Laws 100-202 and 100-371, respectively, regarding the construction of this project, and the Secretary is directed to use $2,000,000 to award continuing contracts in fiscal year 1990 for construction and completion of Lock and Dam 4, Phase I, and Lock and Dam 5, Phase I; and of which $2,500,000 shall be used to acquire up to five thousand acres of land in the vicinity of the Stumpy Lake/Swan Lake/Loggy Bayou Wildlife Management area as part of the lands for the Red River Waterway project; and with funds provided in this title or previously appropriated to the Corps of Engineers, the Secretary further is directed to fund previously awarded and directed construction contracts and to award continuing contracts in fiscal year 1990 for construction and completion of each of the following features of the Red River Waterway: in Pool 1, Vick Revetment Extension; Saline Bend Dikes, Blakewood, Pump Bayou, and Grand Lakes Reinforcement and Dikes. The Federal cost for construction of the Louisiana and Arkansas Railway Bridge near Alexandria, Louisiana, authorized in Public Law 98-181 shall be increased to a limitation of $25,770,000 (July 1, 1983, price levels) in order to avoid disruption of the Colfax Creosoting Company.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $336,000,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further,* That the Secretary of the Army is directed to provide $1,000,000 from funds appropriated by Public Law 100-371 (102 Stat. 859) for Flood Control, Mississippi River and Tributaries, to the United States Department of Agriculture, Soil Conservation Service, to be expended for engineering and design of the Johns Creek project, as authorized by section 401(a) of Public Law 99-662 (100 Stat. 4124): *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with design and construction of a replacement for the Motor Vessel MISSISSIPPI using funds available under this appropriation in order to complete construction of the replacement vessel by the end of calendar year 1991: *Provided further,* That using previously appropriated funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to reimburse the local interests for the Federal share of the cost of relocation of United States Highway 71 bridge in St. Landry Parish, Louisiana, carried out by local interests as authorized by section 824 of Public Law 99-662: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize $2,500,000 of previously appropriated funds to initiate and complete construction of a land side seepage berm to correct a project deficiency at the Mississippi River, Memphis Harbor, Tennessee.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,377,504,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $20,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l): *Provided,* That $100,000 of funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers for operation and maintenance of existing structures and facilities of the Missouri National Recreation River, Nebraska and South Dakota: *Provided further,* That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That $750,000 of the funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers, for maintenance dredging of the Los Angeles River portion of the Los Angeles-Long Beach Harbors project: *Provided further,* That $50,000 of the funds herein appropriated shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the Sauk Lake, Minnesota, project.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters, including bridges, and wetlands, $69,427,000, to remain available until expended.

REVOLVING FUND

For continued acquisition of the Corps of Engineers Automation Plan, $10,000,000, to remain available until expended (33 U.S.C. 576).

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $128,800,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 150 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986, is modified to direct the Secretary of the Army, using $1,300,000 appropriated herein under the General Investigations account and funds appropriated hereafter, to complete the design of the project so as to provide flood protection to the area protected by the existing projects from flood conditions which would occur as a result of the recurrence of Tropical Storm Agnes of 1972.

SEC. 102. The Sacramento River Flood Control Project, California, as authorized by the Flood Control Act of 1917, as amended, is further modified to direct the Secretary of the Army, acting through the Chief of Engineers, to proceed in fiscal year 1990 and in subsequent years as necessary with construction of riverbed gradient restoration structures in the vicinity of River Mile 206, Sacramento River, California, at an additional estimated cost of $6,000,000, generally in accordance with the plan contained in a report prepared by the Glenn Colusa Irrigation District and the California Department of Fish and Game, dated December 1988. Local cost-sharing is to be obtained in accordance with the flood control requirements of the Water Resources Development Act of 1986.

SEC. 103. The undesignated paragraph entitled "Sims Bayou, Texas" in section 401(a) of Public Law 99-662 (100 Stat. 4110) is amended by striking out "$126,000,000" and inserting in lieu thereof "$244,000,000", by striking out "$94,700,000" and inserting in lieu thereof "$164,000,000", and by striking out "$31,300,000" and inserting in lieu thereof "$80,000,000".

SEC. 104. The project for shoreline protection for the Atlantic Coast of Maryland (Ocean City), authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4135), is modified to authorize the Secretary to construct hurricane and storm protection measures based on the District Engineer's Post Authorization Change Notification Report dated May 1989, at a total initial cost of $71,000,000, with an estimated Federal cost of $37,000,000 and an estimated non-Federal cost of $34,000,000, and an annual cost of $2,700,000 for periodic beach nourishment over the life of the project, with an estimated annual Federal cost of $1,755,000 and an estimated annual non-Federal cost of $945,000.

33 USC 576 note.

SEC. 105. Notwithstanding section 110 of the Energy and Water Development Appropriation Act, 1988, Public Law 100-202, the Secretary of the Army is authorized to transfer and reassign property accountability for the headquarters aircraft of the Corps of Engineers, Serial Number 045, from the assets of the civil works revolving fund, to the military activity of the Army that the Secretary determines is appropriate, except that the aircraft shall be made available on a priority basis as necessary for activities in support of the Army's civil works mission.

SEC. 106. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to assume operation of the Sledge Bayou Drainage District's structure located in Quitman County, Mississippi.

Bridges.

SEC. 107. Section 803 of the Water Resources Development Act of 1986 (100 Stat. 4166) is amended by adding at the end thereof the following new sentence: "Notwithstanding section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a), if, before the date of the enactment of this Act, non-Federal interests complete construction and repair of the Cherry Street bridge, the Secretary shall credit toward the non-Federal share of the cost of construction of the Walnut Street bridge an amount equal to the Federal share of the cost incurred for construction and repair of the Cherry Street bridge.".

SEC. 108. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to perform maintenance dredging and related activities to maintain Pump Slough from its confluence with the West Pearl River to the boat ramps in the vicinity of Interstate 59 and Crawford and Davis landings.

SEC. 109. The project for mitigation of fish and wildlife losses at the Canaveral Harbor West Basin and Approach Channel project, Florida, authorized by section 601(a) of the Water Resources Development Act of 1986 under the heading "PORT CANAVERAL HARBOR, FLORIDA" (100 Stat. 4140), is modified to authorize the Secretary to construct that part of the project consisting of reshaping of four spoil islands located in the Banana River, installation of culverts along the existing levee of the south mosquito control impoundment of Merritt Island, and rehabilitation of the existing pump station located at the southern tip of the south mosquito control impoundment, at a total cost of $838,000, with an estimated first Federal cost of $825,000 and an estimated non-Federal cost of $13,000.

SEC. 110. The undesignated paragraph of the Water Resources Development Act of 1986 (Public Law 99-662) under the heading "Roanoke River Upper Basin, Virginia" (100 Stat. 4126) is amended by striking out "$21,000,000" and all that follows in that paragraph and inserting in lieu thereof "$29,000,000, with an estimated first Federal cost of $17,700,000 and an estimated first non-Federal cost of $11,300,000, October 1988 price levels.".

SEC. 111. The project for navigation, Bonneville Lock and Dam, Oregon and Washington, authorized by the Supplemental Appropriations Act of 1985 (Public Law 99-88), the Water Resources Development Act of 1986 (Public Law 99-662), and the Supplemental Appropriations Act of 1989 (Public Law 101-45), is modified to authorize the Secretary of the Army to make available and deliver to the following Oregon and Washington ports: Port of The Dalles, Oregon; Port of Hood River, Oregon; Port of Cascade Locks, Oregon; Port of Klickitat, Washington; and Port of Skamania, Washington, excavated material surplus to the needs of the project as determined and conditioned by the Secretary of the Army without cost to the ports for such material.

Contracts.

The Secretary, or his designee, shall not make such excavated material available until each port has entered into a written agreement: (1) to provide disposal sites at no cost to the government or its agents or its contractors; (2) to provide without charge or fee all disposal site work necessary for placement of the excavated materials as it becomes available for disposal; (3) to provide all disposal site work during disposal of the excavated material such as spreading, compacting and protection of in-water fills but not including offloading from either truck or barge; (4) obtain all required State and Federal permits; and (5) to hold and save harmless the government from all damages, contractual or otherwise from the ports, but not from third-party claims.

Actions taken pursuant to this modification shall not affect the environmental studies and approvals which have been completed for the project.

SEC. 112. Section 4(t)(3) of the Water Resources Development Act of 1988 (102 Stat. 4021-4022) is amended by adding at the end of subparagraph (3)(E) the following new subparagraph:

"(F) Upon transfer of OMR&R responsibility to the city in accordance with the provisions of this subsection, the Secretary shall further modify the project contract to forgive the city's OMR&R payment obligations in excess of $200,000 for the period beginning October 1, 1988, and ending September 30, 1989: *Provided*, That the total amount forgiven shall not exceed $600,000.".

Public buildings and grounds.
Recreation.

SEC. 113. The lake and recreation area at Dam Site 18 of the Papillion Creek Basin Project in Nebraska shall, on and after the date of enactment of this Act, be known and designated as the "Ed Zorinsky Lake and Recreation Area". Any reference to the area containing such dam site and its lake and surroundings in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Ed Zorinsky Lake and Recreation Area.

SEC. 114. Notwithstanding section 601(b) of Public Law 99-662, the project for flood damage prevention, along the Rillito River, Pima County, Arizona, is authorized for construction in accordance with the plans described in the report of the Chief of Engineers dated January 22, 1988, at a total cost of $19,600,000 with an estimated first Federal cost of $14,600,000.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $11,530,000: *Provided*, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $662,120,000, of which $164,866,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $188,823,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further*, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further*, That $17,000,000 of the funds herein appropriated shall be available for use for construction on the Davis Creek Dam, North Loup Division, Nebraska, and related facilities in addition to the amount requested by the Secretary of the Interior for continuing work on the North Loup Division, which funds shall remain available until expended: *Provided further,* That in accordance with Public Law 100–563, there is authorized to be appropriated under section 8, of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $15,000,000 as compensation to the Strawberry Water Users Association which shall be available only for such compensation and must be used for Strawberry Valley Reclamation Project purposes. Of the amounts appropriated hereafter (including funds previously appropriated for fiscal year 1989) under section 8 of such Act, the first $15,000,000 shall be paid to the Association. Upon receipt of such compensation, the Association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of Project lands.

Nothing in this Act shall delay the transfer of Strawberry Valley Project lands under the terms and conditions of section 4 of Public Law 100–563.

During the fiscal year 1990, the Bureau is authorized to utilize funds surplus to construction needs under section 5 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620d), if available, (Bonneville Unit only), to accomplish the purposes and objectives of sections 3 and 4 of Public Law 100–563.

OPERATION AND MAINTENANCE

(INCLUDING TRANSFER OF FUNDS)

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $212,287,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), may be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98–381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable: *Provided further,* That none of the funds appropriated in this Act shall be used to execute

43 USC 618d note.

new long-term contracts for water supply from the Central Valley Project, California, prior to October 1, 1990.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a–421d), and August 6, 1956, as amended (43 U.S.C. 422a–422l), including expenses necessary for carrying out the program, $34,122,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That during fiscal year 1990 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $31,922,000: *Provided further*, That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $47,983,000, of which $1,000,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

43 USC 502 note.

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For acquisition of computer capacity for the Business System Acquisition project, and other capital equipment, $8,500,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571).

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 27, 1987 (16 U.S.C. 460l–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 28 passenger motor vehicles for replacement only; acquisition of one aircraft by transfer of title without the use of appropriated funds; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467), and June 27, 1960 (16 U.S.C. 469): *Provided*, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation and advance planning investigations under the head "General Investigations", and amounts provided for applied engineering under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

43 USC 377a.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

43 USC 1475. The Bureau of Reclamation may hereafter accept the services of volunteers and, from any funds available to it, provide for their incidental expenses to carry out any activity of the Bureau of Reclamation except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government, except for the purposes of chapter 81 of title 5 of the United States Code relating to compensation for work injuries, and shall not be deemed employees of the Bureau of Reclamation except for the purposes of tort claims to the same extent as a regular employee of the Bureau of Reclamation would be under identical circumstances.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.). Notwithstanding the provisions of 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Bureau of Reclamation, Department of the Interior, shall not exceed $400 annually.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

Sec. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Sec. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

Sec. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

Sec. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Section 210 of the Energy and Water Development Appropriations Act of 1988 is hereby deleted in its entirety. 101 Stat. 1329-119.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $2,215,466,000, to remain available until expended, of which $20,000,000 shall be available only for the following facilities: the Biomedical Research Institute, LSU Medical Center at Shreveport, Louisiana, and the Oregon Health Science University: *Provided*, That of the amount appropriated herein, $2,500,000 shall be provided to the Midwest Superconductivity Consortium at Purdue University.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services or purchase of enriched uranium from the Federal Republic of Germany whichever will minimize appropriations; purchase of passenger motor vehicles (not to exceed 25 for replacement only), $1,431,000,000, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,500,900,000 in fiscal year 1990, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1990 so as to result in a final fiscal year 1990 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the

Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 13, of which 10 are for replacement only and one is a police-type vehicle), $1,114,431,000, to remain available until expended: *Provided*, That none of the funds provided in this Act for the Superconducting Super Collider shall be available to finalize or implement any agreements for either in-kind or direct contributions from foreign countries until a full report on such international contributions has been provided to the Congress, unless the President or Secretary of Energy certify in writing that it is in the national interest of the United States to implement such an agreement. Funds available for the Superconducting Super Collider may be utilized to prepare agreements to allow the above report to Congress to be formulated.

Reports.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $346,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury: *Provided*, That any proceeds resulting from the sale of assets purchased from the Nuclear Waste Fund shall be returned to the Nuclear Waste Fund: *Provided further*, That of the amount herein appropriated not to exceed $5,000,000, may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, of which $1,000,000 is to be available for the University of Nevada-Reno to carry out infrastructure studies related to nuclear waste, and of which not more than $1,000,000 may be expended for geology and hydrology studies carried out by the University of Nevada system and not more than $1,000,000 may be expended for socioeconomic and transportation studies: *Provided further*, That not more than $6,000,000 may be provided to the State of Nevada, at the discretion of the Secretary of Energy, to conduct appropriate activities pursuant to the Act: *Provided further*, That not more than $5,000,000, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That of the amount appropriated herein, up to $10,000,000 shall be made available to the University of Nevada, Las Vegas (UNLV), to provide computing resource to the State of Nevada to carry out its independent analyses and oversight responsibilities under the Nuclear Waste Policy Act of 1982 and for use by UNLV. The funds shall be made available by direct payment to UNLV in the amount of the purchase price of a supercomputer or coupled minisupercomputers. UNLV shall take title to and assume ownership of the computer hardware and software that are purchased with these funds.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

For necessary expenses of activities related to the production, distribution, and sale of isotopes and related services, $16,243,000, to remain available until expended: *Provided*, That this amount and, notwithstanding 31 U.S.C. 3302, revenues received from the disposition of isotopes and related services shall be credited to this account to be available for carrying out these purposes without further appropriation: *Provided further*, That all unexpended balances of previous appropriations made for the purpose of carrying out activities related to the production, distribution, and sale of isotopes and related services may be transferred to this fund and merged with other balances in the fund and be available under the same conditions and for the same period of time: *Provided further*, That fees shall be set by the Secretary of Energy in such a manner as to provide full cost recovery, including administrative expenses, depreciation of equipment, accrued leave, and probable losses: *Provided further*, That all expenses of this activity shall be paid only from funds available in this fund: *Provided further*, That at any time the Secretary of Energy determines that moneys in the fund exceed the anticipated requirements of the fund, such excess shall be transferred to the general fund of the Treasury.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $9,656,034,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 208 for replacement only including 19 police-type vehicles).

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $355,056,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $150,000,000 in fiscal year 1990 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1990 so as to result in a final fiscal year 1990 appropriation estimated at not more than $205,056,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $22,959,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,145,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for expenses of the Northeast Oregon Spring Chinook Facility and Galbraith Springs/Sherman Creek Hatcheries; and for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1990, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $18,469,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,172,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $11,723,000 in reimbursements, to remain available until expended: *Provided*, That the continuing fund established by the Act of October 12, 1949, c. 680, title I, section 101, as amended, shall also be available on an ongoing basis for paying for purchase power and wheeling expenses when the Administrator determines that such expenditures are necessary to meet contractual obligations for the sale and delivery of power during periods of below-average hydropower generation. Payments from the continuing fund shall be limited to the amount required to replace the generation deficiency, and only for the project where the

16 USC 825s-1 note.

deficiency occurred. Replenishment of the fund shall occur within twelve months of the month in which the funds were first expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase, maintenance, and operation of one helicopter for replacement only, $291,233,000, to remain available until expended, of which $264,457,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,564,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended: *Provided*, That, the continuing fund established in Public Law 98-50 shall also be available on an ongoing basis for paying for purchase power and wheeling expenses when the Administrator determines that such expenditures are necessary to meet contractual obligations for the sale and delivery of power during periods of below-normal hydropower generation. Payments from the continuing fund shall be limited to the amount required to replace the generation deficiency, and only for the project where the deficiency occurred. Replenishment of the continuing fund shall occur within twelve months of the month in which the funds were first expended.

43 USC 502 note.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $2,000); $116,550,000, of which $11,000,000 shall remain available until expended and be available only for contractual activities: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed $116,550,000 of revenues from licensing fees, inspection services, and other services and collections in fiscal year 1990, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1990, so as to result in a final fiscal year 1990 appropriation estimated at not more than $0: *Provided further*, That revenues collected under the authority of section 3401 of the Omnibus Budget Reconciliation Act that have been held in suspense pending the final outcome of litigation, will be immediately credited to the general fund of the Treasury.

42 USC 7171 note.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $75,000, to remain available until expended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

Gifts and property.

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

Schools and colleges.
Women.

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

40 USC app. 401 note.

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $150,000,000.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-56, section 1441, $7,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $214,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $345,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $300,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $442,100,000, to remain available until expended, of which $23,195,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $146,850,000 in fiscal year 1990 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1990 from licensing fees, inspection services and other services and collections, and from the Nuclear Waste Fund, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1990 appropriation estimated at not more than $295,250,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $2,900,000, to remain available until expended; and in addition, not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfer shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $200,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $276,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $121,000,000, to remain available until expended: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code: *Provided further*, That the Tennessee Valley Authority may hereafter accept the services of volunteers and, from any funds available to it, provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government, except for the purposes of chapter 81 of title 5 of the United States Code relating to compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims to the same extent as a regular employee of the Tennessee Valley Authority would be under identical circumstances.

16 USC 831b note.

16 USC 831b-1.

OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Nuclear Waste Negotiator, as authorized by Public Law 100-203, section 411, $2,000,000, to be derived from the Nuclear Waste Fund and to remain available until expended.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 509, $2,000,000, to be derived from the Nuclear Waste Fund and to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such report expressly provides otherwise.

Contracts. Public information.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided*, That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further*, That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1990".

Approved September 29, 1989.

LEGISLATIVE HISTORY—H.R. 2696:

HOUSE REPORTS: No. 101-96 (Comm. on Appropriations) and No. 101-235 (Comm. of Conference).
SENATE REPORTS: No. 101-83 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 28, considered and passed House.
July 27, considered and passed Senate, amended.
Sept. 12, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Sept. 14, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Sept. 29, Presidential statement.

○

Public Law 101-102
101st Congress

Joint Resolution

Sept. 29, 1989
[H.J. Res. 204]

To designate October 1989, as "National Quality Month".

Whereas the design and manufacture of quality commercial products and goods and the provision of services of the highest quality are fundamental to the success of the United States in the world marketplace, to the improvement of the standard of living of the people of the United States, and to the security of the United States;

Whereas the United States has been a world leader in producing quality goods and services and the leadership has resulted in a world-wide market for the products of the United States;

Whereas in recent years, the leadership of the United States in producing quality goods has been challenged by foreign competition and the rate of growth of the productivity of the United States is currently less than the rate of growth of the productivity of some of the competitors of the United States;

Whereas a commitment to continuous quality improvement, using recognized quality principles and practices, has been demonstrated to be the most effective way to regain and solidify economic leadership in the world marketplace;

Whereas over the past 5 years, virtually every segment of business and industry in the United States and many units of government have adopted quality management principles and experienced resulting dramatic improvements in productivity;

Whereas the Federal Government promotes quality through such programs as the Malcolm Baldrige National Quality Award of the Department of Commerce, the Federal Quality Institute, the President's Council on Management Improvement, the Productivity Improvement Plan of the Department of Defense, and the Excellence Award for Quality and Productivity of the National Aeronautics and Space Administration;

Whereas regional quality movements have promoted quality management philosophy and quality management principles and have begun to develop a sense of quality consciousness within particular regions of the Nation;

Whereas cognizance of quality, like cognizance of safety, is an attitude that once instilled in individuals becomes ingrained;

Whereas implementation of quality principles in manufacturing and service operations increases productivity through emphasis on waste reduction, defect prevention, and improved reliability of products and services;

Whereas the American Society for Quality Control has been a leader in the development, promotion, and application of quality and quality-related technology since 1946;

Whereas the American Society for Quality Control, together with other national professional organizations, business, industry, government, and academia, is sponsoring activities to observe National Quality Month to promote awareness of the need for quality in production and services throughout the United States; and

Whereas the theme of National Quality Month will be "Quality First", to emphasize that quality is an integral part of the processes that create goods and services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "National Quality Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved September 29, 1989.

LEGISLATIVE HISTORY—H.J. Res. 204 (S.J. Res. 124):

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, S.J. Res. 124 considered and passed Senate.
Sept. 19, H.J. Res. 204 considered and passed House.
Sept. 20, considered and passed Senate.

○

PUBLIC LAW 101-103—SEPT. 30, 1989

PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM REAUTHORIZATION ACT OF 1989

39-139 O - 89 (103)

Public Law 101-103
101st Congress

An Act

Sept. 30, 1989
[H.R. 3282]

To amend title 5, United States Code, to authorize the continuation of the performance management and recognition system through March 31, 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Performance Management and Recognition System Reauthorization Act of 1989.
Government organization and employees.
5 USC 5401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Performance Management and Recognition System Reauthorization Act of 1989".

SEC. 2. REAUTHORIZATION.

Section 5410 of title 5, United States Code, is amended by striking "September 30, 1989" and inserting "March 31, 1991".

SEC. 3. AMENDMENTS RELATING TO MERIT INCREASES.

(a) AMENDMENTS.—Section 5404 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "applicable" in paragraph (1) and inserting "first";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following:

"(2) the term 'second reference rate', as used with respect to the rate of basic pay of an employee, means the rate equal to the sum of—

"(A) the minimum rate of basic pay provided under section 5332 of this title for the grade of the position held by such employee; and

"(B) two-thirds of the difference between the maximum rate of basic pay provided for such grade under such section and the minimum rate of basic pay so provided;"; and

(2) in subsection (c)—

(A) by striking "applicable" in paragraph (1)(A) and inserting "first"; and

(B) by striking subparagraph (B) of paragraph (1) and inserting the following:

"(B) If, on the day before the effective date of an increase under this section, the rate of basic pay of the employee equals or exceeds the first reference rate but does not equal or exceed the second reference rate, and the performance of such employee is rated—

"(i) at the level 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a merit increase; or

"(ii) at the fully successful level or the level 1 level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a merit increase.

"(C) If the rate of basic pay of the employee equals or exceeds the second reference rate on the day before the effective date of an increase under this section, and the performance of such employee is rated—

"(i) at the level 2 levels above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to a merit increase;

"(ii) at the level 1 level above the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-half of a merit increase; or

"(iii) at the fully successful level, the rate of basic pay of the employee shall be increased by an amount equivalent to one-third of a merit increase."

(b) Effective Date.—The amendments made by subsection (a) shall take effect on October 1, 1989, and shall apply with respect to any pay increase which becomes effective during the 18-month period beginning on that date. 5 USC 5404 note.

SEC. 4. AMENDMENTS RELATING TO PERFORMANCE AWARDS.

Section 5406(c) of title 5, United States Code, is amended—

(1) by striking subclause (III) of paragraph (2)(A)(i) and inserting the following:

"(III) shall be 1.15 percent for each of fiscal years 1989, 1990, and 1991.";

(2) in paragraph (2)(A)(ii) by striking "of the 5 fiscal years" and inserting "fiscal year"; and

(3) by adding at the end the following:

"(3) The estimate under paragraph (1)(A)(ii) for fiscal year 1991 shall not take into account any period following March 31 of that year.".

SEC. 5. PERFORMANCE IMPROVEMENT PLANS.

(a) In General.—Section 4302a(b) of title 5, United States Code, is amended by striking paragraphs (5) and (6) and inserting the following:

"(5) procedures under which any employee whose performance has been rated below fully successful shall be given a performance improvement plan (which shall include, along with such other matters as the agency may consider appropriate, a description of the types of improvements that the employee must demonstrate to attain the fully successful level of performance) and a reasonable period of time to attain that level; and

"(6) reassigning, reducing in grade, or removing any employee who fails to attain at least the fully successful level once afforded the period under paragraph (5).

The provisions of section 4303, relating to the reduction in grade or removal of an employee for unacceptable performance, shall apply with respect to any reduction in grade or removal under paragraph (6).".

(b) Effective Date.—The amendment made by this section shall take effect on October 1, 1989, and shall apply with respect to any performance determination (under section 4302a(b)(4) of title 5, United States Code) given on or after that date. 5 USC 4302a note.

SEC. 6. TEMPORARY CONTINUATION OF PROVISION RELATING TO THE SCHEDULE FOR PAYING THE LUMP-SUM CREDIT TO CERTAIN ANNUITANTS.

Section 6001(a) of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) is amended by striking "October 1, 1989" and inserting "December 3, 1989".

Approved September 30, 1989.

LEGISLATIVE HISTORY—H.R. 3282:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 19, considered and passed House.
Sept. 27, considered and passed Senate, amended.
Sept. 28, House concurred in Senate amendments.

○

Public Law 101-104
101st Congress

Joint Resolution

Designating the week of September 24, 1989, as "Religious Freedom Week".

Oct. 2, 1989
[S.J. Res. 146]

Whereas the principle of religious liberty was an essential part of the founding of our Nation, and must be safeguarded with eternal vigilance by all men and women of good will;

Whereas religious liberty has been endangered throughout history by bigotry and indifference;

Whereas the first amendment to the Constitution of the United States guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;

Whereas the Constitution of the United States ensures religious freedom to all of the people of the United States;

Whereas at Touro Synagogue in 1790, President George Washington issued his famous letter declaring "to bigotry no sanction, to persecution no assistance";

Whereas the Touro Synagogue letter advocating the doctrine of mutual respect and understanding was issued more than 1 year before the adoption of the Bill of Rights;

Whereas the letter of President Washington and the Touro Synagogue have become national symbols of the commitment of the United States to religious freedom;

Whereas throughout our Nation's history, religion has contributed to the welfare of believers and of society generally, and has been a force for maintaining high standards for morality, ethics, and justice;

Whereas religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and

Whereas religious liberty can be protected only through the efforts of all persons of good will in a united commitment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the week of September 24, 1989, is hereby declared to be "Religious Freedom Week", wherein members of all faiths or none, may join together in support of religious tolerance and religious liberty for all.**

Approved October 2, 1989.

LEGISLATIVE HISTORY—S.J. Res. 146:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 19, considered and passed House.

○

Public Law 101-105
101st Congress

An Act

To provide for the addition of certain parcels to the Harry S Truman National Historic Site in the State of Missouri.

Oct. 2, 1989
[H.R. 419]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPERTY ACQUISITION.

(a) NOLAND/HAUKENBERRY HOUSE AND WALLACE HOMES.—The first section of the Act entitled "An Act to establish the Harry S Truman National Historic Site in the State of Missouri, and for other purposes", approved May 23, 1983 (97 Stat. 193), is amended— 16 USC 461 note.

(1) by striking "That," and inserting "That (a)"; and

(2) by adding at the end the following:

"(b)(1) The Secretary is further authorized to acquire by any means set forth in subsection (a) the real properties commonly referred to as—

"(A) the Noland/Haukenberry house and associated lands on Delaware Street in the city of Independence, Missouri, and

"(B) the Frank G. Wallace house and the George P. Wallace house, and associated lands, both on Truman Road in the city of Independence, Missouri.

"(2) The owners of property referred to in paragraph (1) on the date of its acquisition by the Secretary may, as a condition to such acquisition, retain the right of use and occupancy of the improved property for a term of up to and including 25 years or, in lieu thereof, for a term ending at the death of the owner or the spouse of the owner, whichever is later. The owner shall elect the term to be reserved.

"(3) Unless a property acquired pursuant to this subsection is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner under paragraph (2).".

(b) TECHNICAL AMENDMENT.—The first sentence of section 2 of such Act is amended by striking "subsection (a)" and inserting "the first section of this Act". 16 USC 461 note.

97 Stat. 193.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 3 of such Act is amended—

(1) by inserting before the period at the end thereof ", except for subsection (b) of the first section of this Act"; and

(2) by adding at the end the following: "There is authorized to be appropriated $250,000 to carry out subsection (b) of the first section of this Act.".

Approved October 2, 1989.

LEGISLATIVE HISTORY—H.R. 419:

HOUSE REPORTS: No. 101-19 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-114 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Apr. 11, considered and passed House.
Sept. 12, considered and passed Senate.

○

Public Law 101-106
101st Congress

An Act

To provide for the establishment of the Ulysses S. Grant National Historic Site in the State of Missouri, and for other purposes.

Oct. 2, 1989
[H.R. 1529]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ULYSSES S. GRANT NATIONAL HISTORIC SITE.

16 USC 461 note.

Julia Dent Grant.

In order to preserve and interpret for the benefit and inspiration of all Americans a key property associated with the life of General and later President Ulysses S. Grant and the life of First Lady Julia Dent Grant, knowledge of which is essential to understanding, in the context of mid-nineteenth century American history, his rise to greatness, his heroic deeds and public service, and her partnership in them, there is hereby established the Ulysses S. Grant National Historic Site near St. Louis, Missouri.

SEC. 2. PROPERTY ACQUISITION.

Gifts and property.

(a) WHITE HAVEN PROPERTY.—The Secretary of the Interior is authorized to acquire by donation the property and improvements thereon known as White Haven in the unincorporated portion of St. Louis County adjacent to Grantwood Village within the area generally depicted on the map entitled "Boundary Map, White Haven National Historic Site", numbered WHHA-80,000 and dated July 1988. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

Public information.

(b) PERSONAL PROPERTY.—The Secretary is authorized to acquire by donation or purchase with donated or appropriated funds personal property directly associated with White Haven or President or Mrs. Grant for the purposes of the national historic site referred to in section 1.

SEC. 3. ADMINISTRATION.

The property acquired pursuant to section 1 of this Act shall be administered by the Secretary of the Interior in accordance with provisions of law generally applicable to units of the National Park

System, including the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666). The Secretary is authorized to enter into cooperative agreements with adjacent landowners for the provision of such parking and safe access to the property as may be necessary for public use.

Contracts.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved October 2, 1989.

LEGISLATIVE HISTORY—H.R. 1529:

HOUSE REPORTS: No. 101-83 and Pt. 2 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-115 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
    June 20, considered and passed House.
    Sept. 12, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
    Oct. 3, Presidential statement.

○

Public Law 101-107
101st Congress

Joint Resolution

Designating October 6, 1989, as "German-American Day".

Oct. 3, 1989
[S.J. Res. 118]

Whereas the Senate of the United States unanimously passed joint resolutions designating October 6, 1987, and October 6, 1988, as "German-American Day";

Whereas President Ronald W. Reagan issued proclamations in 1987 and 1988 acknowledging "German-American Day" and held formal ceremonies in the Rose Garden and the Roosevelt Room of the White House;

Whereas the work and contributions to the development and culture of the United States by German-Americans, since the arrival of the first German immigrants in the United States on October 6, 1683, merits a tribute to the achievements of German-Americans;

Whereas German-Americans, as in the past, continue to contribute to the development, life, and cultural heritage of the United States, and will work for and will support the democratic principles of the Government of the United States and the freedom of all people;

Whereas such contributions should be recognized and celebrated in 1989; and

Whereas German-Americans are interested in having "German-American Day" established as an annual event on October 6: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1989, is designated as "German-American Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 3, 1989.

LEGISLATIVE HISTORY—S.J. Res. 118:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 19, considered and passed House.

○

Public Law 101-108
101st Congress

An Act

Oct. 6, 1989
[H.R. 2835]

To provide for the relocation of certain facilities at the Gateway National Recreation Area, Sandy Hook, New Jersey, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELOCATION AND RECONSTRUCTION OF CERTAIN FACILITIES AT SANDY HOOK UNIT, GATEWAY NATIONAL RECREATION AREA.

In order to relocate and reconstruct the trailer court situated on parcel B, as depicted on the map numbered 646/80,004A and dated August, 1989, and to facilitate the modifications of the park's road network the Secretary of the Interior and the Secretary of Transportation are authorized to exchange the administrative jurisdiction over lands situated on parcel A (as depicted on such map) for that portion of the lands situated on parcel B not previously transferred to the Secretary of the Interior pursuant to section 2. No such transfer shall take place until after completion of a final general management plan for the Sandy Hook Unit, Gateway National Recreation Area, and until a cultural and natural resources assessment of the transfer has been completed. The Secretary of the Interior shall prepare such assessment after notice and opportunity for public comment. The Secretary of the Interior and the Secretary of Transportation are each authorized to pay approximately 50 percent of the costs of such relocation and reconstruction.

SEC. 2. MARINE SCIENCES LABORATORY.

Real property.

In order to facilitate construction of a marine sciences laboratory at the Gateway National Recreation Area, Sandy Hook, New Jersey (as authorized by Public Law 100-515), the Secretary of Transportation shall transfer to the Secretary of the Interior, without reimbursement, administrative jurisdiction over the real property, comprising approximately two acres, designated as the Marine Science Laboratory Assignment on the map of parcel B referred to in section 1.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 6, 1989.

LEGISLATIVE HISTORY—H.R. 2835:

HOUSE REPORTS: No. 101-239 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 19, considered and passed House.
Sept. 26, considered and passed Senate.

○

Public Law 101-109
101st Congress

An Act

To authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia.

Oct. 6, 1989
[S. 85]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act to provide for the establishment of the Harpers Ferry National Monument", approved June 30, 1944 (58 Stat. 645; 16 U.S.C. 450bb), is amended by—

(1) striking "two thousand four hundred and seventy-five acres" in the first sentence and inserting "two thousand five hundred and five acres"; and

Gifts and property.

(2) inserting after the first sentence the following: "The Secretary is authorized to acquire, by donation only, approximately twenty-seven acres of land or interests therein which are outside the boundary of the Harpers Ferry National Historical Park and generally depicted on a map entitled 'Proposed Bradley and Ruth Nash Addition—Harpers Ferry National Historical Park,' dated April 1, 1989 and numbered 385-80056. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. When acquired, such lands or interests therein shall become a part of the park, subject to the laws and regulations applicable thereto.".

Public information.

16 USC 450bb note.

(b) Nothing in this Act shall be deemed to prohibit the Secretary from using such measures as may be necessary to acquire a clear and marketable title, free of any and all encumbrances, to the lands identified for acquisition in paragraph (a)(2) of this Act.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S. 85:

HOUSE REPORTS: No. 101-250 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-32 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 14, considered and passed Senate.
Sept. 25, considered and passed House.

O

Public Law 101-110
101st Congress

An Act

Oct. 6, 1989

[S. 1709]

To provide interim extensions of Department of Veterans Affairs programs of respite care for certain veterans, community-based residential care for homeless, chronically mentally ill veterans, State home construction grants, and leave transfers for certain health-care professionals, and of Department of Veterans Affairs home-loan fees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government organization and employees.

SECTION 1. EXTENSIONS OF DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROGRAMS.

38 USC 620B note.

(a) Respite Care.—Notwithstanding the provisions of subsection (c) of section 620B of title 38, United States Code, the authority provided by such section shall terminate on November 30, 1989.

38 USC 612 note.

(b) Community-Based Residential Care for Homeless, Chronically Mentally Ill Veterans.—Notwithstanding the provisions of subsection (d) of section 115 of the Veterans Benefits and Services Act of 1988 (Public Law 100-322), the authority for the pilot program authorized by such section shall expire on November 30, 1989.

(c) State Home Construction Grants.—Section 5033(a) of title 38, United States Code, is amended in the first sentence by striking out "1989" and inserting in lieu thereof "1990".

5 USC 6302 note.

(d) Leave Transfers.—The authority of the Department of Veterans Affairs under section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989 (Public Law 100-440) to operate a leave-transfer program for employees subject to section 4108 of title 38, United States Code, is extended through November 30, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of November 30, 1989.

SEC. 2. EXTENSION OF DEPARTMENT OF VETERANS AFFAIRS HOME-LOAN FEE.

38 USC 1829 note.

Notwithstanding the provisions of subsection (c) of section 1829 of title 38, United States Code, fees may be collected under such section with respect to loans closed before December 1, 1989.

SEC. 3. EFFECTIVE DATE; RATIFICATION.

38 USC 5033 note.

(a) Effective Date.—The provisions of and amendments made by this Act shall take effect as of October 1, 1989.

38 USC 620B note.

(b) Ratification.—Any actions of the Secretary of Veterans Affairs in carrying out the provisions of section 620B of title 38, United

States Code, section 115 of the Veterans Benefits and Services Act of 1988, section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989, or section 1829 of such title, by contract or otherwise, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act are hereby ratified.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S. 1709:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 29, considered and passed Senate.
Oct. 2, considered and passed House.

○

Public Law 101-111
101st Congress

Joint Resolution

Oct. 6, 1989
[S.J. Res. 117]

To designate the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 19, 1989, through November 25, 1989, and the week of November 18, 1990, through November 24, 1990, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S.J. Res. 117:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 28, considered and passed House.

○

Public Law 101-112
101st Congress

Joint Resolution

Designating October 1989 as "National Domestic Violence Awareness Month".

Oct. 6, 1989
[S.J. Res. 133]

Whereas it is estimated that a woman is battered every fifteen seconds in America;
Whereas domestic violence is the single largest cause of injury to women in the United States, affecting three million to four million women;
Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;
Whereas 30 per centum of female homicide victims in 1986 were killed by their husbands or boyfriends;
Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery, and aggravated assault;
Whereas in 50 per centum of families where the wife is being abused, the children of that family are also abused;
Whereas some individuals in our law enforcement and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;
Whereas in 1986, over three hundred and eleven thousand women, plus their children, were provided emergency shelter in domestic violence shelters and safehomes and the number of women and children that were sheltered by domestic violence programs increased by nearly one hundred thousand between 1983 and 1986;
Whereas for every one woman sheltered nationwide, two women in need of shelter may be turned away due to a lack of shelter space;
Whereas the nationwide efforts to help the victims of domestic violence need to be coordinated;
Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and
Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S.J. Res. 133:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 28, considered and passed House.

○

Public Law 101-113
101st Congress

Joint Resolution

Oct. 6, 1989
[S.J. Res. 138]

Designating October 16, 1989, and October 16, 1990, as "World Food Day".

Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world;

Whereas there is growing concern in the United States and around the world for environmental protection and the dangers posed to future food security from misuse and overuse of precious natural resources of land, air, and water and the subsequent degradation of the biosphere;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therefore, to the security of the United States;

Whereas the Congress is particularly concerned with the continuing food problems of Africa and is supportive of the efforts being made there to reform and rationalize agricultural policies to better meet the food needs of Africans;

Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the Congress is acutely aware of the paradox of enormous surplus production capacity in the United States despite the desperate need for food by people throughout the world;

Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;

Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas private enterprise and the primacy of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United States capable of meeting the food needs of most of the people of the United States;

Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;

Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world and to continue to aid hungry and malnourished people of the world;

Whereas participation by private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 400 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1989, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and donating food and money for such people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1989, and October 16, 1990, are designated as "World Food Day", and the

President is authorized and requested to issue a proclamation calling upon the people of the United States to observe World Food Day with appropriate ceremonies and activities, including worship services, fasting, education endeavors, and the establishment of year-round food and health programs and policies.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S.J. Res. 138:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 28, considered and passed House.

○

Public Law 101-114
101st Congress

Joint Resolution

Oct. 6, 1989
[S.J. Res. 148]

To designate the week of October 8, 1989, through October 14, 1989, as "National Job Skills Week".

Whereas the ability to maintain an internationally competitive and productive economy and a high standard of living depends on the development and utilization of new technologies;

Whereas new technologies require skills that are currently lacking in the national workforce;

Whereas experts in both the public and private sectors predict that a shortage of skilled entry-level workers will exist through the remainder of this century;

Whereas young people in the United States are experiencing higher than normal unemployment rates because many of them lack the skills necessary to perform the entry-level jobs that are currently available;

Whereas these young people will continue to experience higher than normal unemployment rates unless they develop the skills necessary to perform the entry-level jobs that become available;

Whereas American workers who face dislocation due to plant closures and industrial relocation need special training and education to prepare for new jobs and new opportunities; and

Whereas a National Job Skills Week can serve to focus attention on present and future workforce needs, to encourage public and private cooperation in job training and educational efforts, and to highlight the technological changes underway in the workplace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 8, 1989, through October 14, 1989, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 6, 1989.

LEGISLATIVE HISTORY—S.J. Res. 148:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Sept. 28, considered and passed House.

○

Public Law 101-115
101st Congress

An Act

To authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

Oct. 13, 1989
[H.R. 1486]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATIONS FOR MARITIME ADMINISTRATION

SECTION 1. In fiscal year 1990, the following amounts are authorized to be appropriated for the Maritime Administration:

(1) any amounts necessary to liquidate obligations under operating-differential subsidy contracts for the fiscal year 1990 portion of the total of current contract authority;

(2) $3,750,000 for research and development activities, to remain available until expended, including—

(A) $2,250,000 for vessel design and shipyard studies; and

(B) $1,500,000 for other research;

(3) $33,205,000 for expenses related to manpower, education, and training, including—

(A) $23,157,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(B) $8,670,000 for assistance to the State maritime academies and the current fleet of five training ships; and

(C) $1,378,000 for manpower and additional training;

(4) $25,966,000 for operating programs, including—

(A) $17,853,000 for general administration;

(B) $957,000 for development of water transportation systems; and

(C) $7,156,000 for use of water transportation systems; and

(5) such sums as are necessary for expenses related to national security support capabilities, including—

(A) fleet additions, replacements, acquisitions, and upgrading of vessels for the Ready Reserve Force, maintenance and operations programs in support of the Ready Reserve Force, Ready Reserve Force facilities, Ready Reserve Force vessel conversions, and other programs in the National Defense Reserve Fleet; and

(B) emergency planning operations.

STUDENT INCENTIVE PAYMENT AGREEMENTS

SEC. 2. (a) Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)), is amended—

(1) in subparagraph (B), by striking "and" the second place it appears;

(2) by striking subparagraph (C); and

(3) by adding at the end the following new subparagraphs:

"(C) paid by the Secretary to the individual for the first complete or partial academic year of attendance in a lump sum of $1,200 or in amounts prorated on the basis of actual attendance, and at a time during the second academic year when the individual enters into an agreement accepting midshipman and enlisted reserve status as required under paragraph (2); and

"(D) paid by the Secretary, for the academic years after those years specified in subparagraph (C), as the Secretary shall prescribe while the individual is attending the academy.".

(b) Section 1304(g)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(2)), is amended by striking "apply for midshipman" and inserting in lieu thereof "accept midshipman and enlisted reserve".

(c) Section 1304(g)(3)(D) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(3)(D)), is amended by striking "to apply for an appointment as,".

(d) Section 1304(g)(4) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(4)), is amended by striking "has attended a State maritime academy for not less than 2 years" and inserting in lieu thereof "has accepted the payment described in paragraph (1)(C) of this subsection".

46 USC app. 1295c note.

(e) The amendments made by this section apply to individuals who commence attendance after December 31, 1989, at a State maritime academy in accordance with section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c).

COAST GUARD EXAMINATION REQUIREMENT

SEC. 3. (a) Section 1304(f)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(f)(1)), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program shall pass the examination administered by the Coast Guard required for issuance of a license under section 7101 of title 46, United States Code.".

46 USC app. 1295c note.

(b) The requirement set forth in subsection (f)(1)(C) of section 1304 of the Merchant Marine Act, 1936, as added by subsection (a) of this section, shall be a condition to any payment or use of any vessel received by a State maritime academy under such section 1304 after December 31, 1989.

STUDY

46 USC app. 1295c note.

SEC. 4. With the funds authorized under this Act, the Secretary of Transportation, after consultation with other agencies in the executive branch and the State, regional, and Federal maritime academies, shall submit to the Congress a study within one year to determine how currently employed training vessels, United States-flag commercial vessels, vessels in the Ready Reserve Force, and other vessels under the control of the United States Government may be used to provide training opportunities for State, regional, and Federal maritime academy students that will produce licensed graduate officers. The study shall include data on the cost effectiveness to the United States Government; the cost impact on the affected State governments; the safety of any vessels involved; the safety of the students; the operational and scheduling impact upon the several entities involved; liability exposure; and the impact on national security sealift. The Secretary shall not implement any ship sharing program until not less than sixty days after the submission of the study to the Congress.

PAYMENTS TO MARITIME ACADEMIES

SEC. 5. Section 1304(d)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(d)(1)) is amended—

(1) by redesignating the existing text as subparagraph (A);

(2) by striking the second sentence of subparagraph (A) as so redesignated; and

(3) by adding at the end the following new subparagraphs:

"(B) Subject to subparagraph (C), the annual payment to such State maritime academy shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, and to such regional maritime academy shall be at least equal to the amount given the academy by all States and territories cooperating to sponsor the academy.

"(C) The amount under subparagraph (B) may not be more than $25,000, except that the amount shall be—

"(i) $100,000 to such State maritime academy if the academy meets the condition set forth in subsection (f)(2); or

"(ii) $200,000 to such regional maritime academy if the academy meets the condition set forth in subsection (f)(2).".

NATIONAL DEFENSE RESERVE FLEET

Armed Forces.

SEC. 6. Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended to read as follows:

"NATIONAL DEFENSE RESERVE FLEET

"SEC. 11. (a) The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consisting of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet.

"(b) Except as otherwise provided by law, a vessel in the fleet may be used—

"(1) for an account of an agency of the United States Government in a period during which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); or

"(2) on the request of the Secretary of the Navy, and in accordance with memoranda of agreement between the Secretary of Transportation and the Secretary of Defense, for—

"(A) testing for readiness and suitability for mission performance;

"(B) defense sealift functions for which other sealift assets are not reasonably available; and

"(C) support of the deployment of the United States armed forces in a military contingency, for military contingency operations, or for civil contingency operations upon orders from the National Command Authority;

"(3) for otherwise lawfully permitted storage or transportation of non-defense-related cargo as directed by the Secretary of Transportation with the concurrence of the Secretary of Defense; or

"(4) for training purposes to the extent authorized by the Secretary of Transportation with the concurrence of the Secretary of Defense.

"(c) The Secretary of Transportation shall not require bid, payment, performance, payment and performance, or completion bonds from contractors for repair, alteration, or maintenance of vessels of the National Defense Reserve Fleet unless—

"(1) required by law; or

"(2) the Secretary determines, after investigation, that the imposition of such bonding requirements would not preclude any responsible potential bidder or offeror from competing for award of the contract.".

WAR RISK INSURANCE

SEC. 7. (a) Section 1202 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1282), is amended by adding at the end the following new subsection:

"(c) Insurance and reinsurance for vessels may be provided by the Secretary under this title only on the condition that such vessels be available for the United States in time of war or national emergency.".

(b) Section 1214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1294), is amended by striking "1990" and substituting "1995"

NATIONAL MARITIME ENHANCEMENT INSTITUTES

46 USC app. 1121-2.

SEC. 8. (a) The Secretary of Transportation may designate National Maritime Enhancement Institutes.

(b) Activities undertaken by such an Institute may include—

(1) conducting research concerning methods for improving the performance of maritime industries;

(2) enhancing the competitiveness of domestic maritime industries in international trade;

(3) forecasting trends in maritime trade;

(4) assessing technological advancements;

(5) developing management initiatives and training;

(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

(8) fostering innovations in maritime transportation pricing; and

(9) improving maritime economics and finance.

Regulations.

(c) An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

(d) The Secretary shall designate an Institute under this section on the basis of the following criteria:

(1) the demonstrated research and extension resources available to the designee for carrying out the activities specified in subsection (b);

(2) the capability of the designee to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry;

(3) the existence of an established program of the designee encompassing research and training directed to enhancing maritime industries;

(4) the demonstrated ability of the designee to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program; and

(5) the qualification of the designee as a nonprofit institution of higher learning.

(e) The Secretary may make research grants, on an equal matching basis, to an institute from amounts appropriated pursuant to section 1(2)(B). The aggregate amount of such grants shall not exceed $100,000.

Approved October 13, 1989.

LEGISLATIVE HISTORY—H.R. 1486:

HOUSE REPORTS: No. 101-39 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-119 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
May 2, considered and passed House.
Sept. 21, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendments.

○

Public Law 101-116
101st Congress

Joint Resolution

Oct. 13, 1989
[S.J. Res. 81]

To designate the week of October 1 through 7, 1989, as "National Health Care Food Service Week".

Whereas health care food service is a vital function of the provision of care and treatment of hospitalized persons;

Whereas health care food service workers, chefs, dietitians, dietary assistants, and administrators work in concert with other health care professionals to provide the best possible patient care; and

Whereas the provision of nutrition and sustenance is an essential component of the care and recovery of hospitalized persons: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 1 through 7, 1989, is designated as "National Health Care Food Service Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.

Approved October 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 81:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed Senate.
Sept. 28, considered and passed House.

○

Public Law 101-117
101st Congress

Joint Resolution

To designate October 1989 and 1990 as "National Down Syndrome Month".

Oct. 13, 1989
[S.J. Res. 122]

Whereas the past two decades have brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down syndrome—a condition which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome, to develop special education classes within mainstream programs in schools, to provide for vocational training in preparation for entering the work force, and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas not only the improvement in educational opportunities for those with Down syndrome, but also the advancement in medical science is adding to a brighter outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

***Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That October 1989 and 1990 are designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.**

Approved October 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 122:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Oct. 3, considered and passed House.

○

Public Law 101-118
101st Congress

An Act

Oct. 17, 1989
[H.R. 2358]

To authorize appropriations for fiscal year 1990 for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 4 of the joint resolution entitled "Joint resolution providing support for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives", approved November 9, 1987 (2 U.S.C. 1004), is amended—

(1) by striking out "and" after "September 30, 1987),"; and

(2) by inserting after "September 30, 1989" the following: ", and $1,033,785 for the fiscal year ending September 30, 1990".

SEC. 2. PROGRAM ELEMENT REQUIREMENTS.

Section 2(a)(4) of such joint resolution (2 U.S.C. 1002(a)(4)) is amended by striking out "may" and inserting in lieu thereof "shall".

SEC. 3. AWARDS FOR PROGRAM PARTICIPATION.

Paragraphs (1), (2), and (3) of section 2(b) of such joint resolution (2 U.S.C. 1002(b) (1), (2), and (3)) are each amended by striking out "satisfy award standards" and inserting in lieu thereof "participate in the program".

Approved October 17, 1989.

LEGISLATIVE HISTORY—H.R. 2358:

HOUSE REPORTS: No. 101-135 (Comm. on House Administration).
SENATE REPORTS: No. 101-150 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 12, considered and passed House.
Oct. 2, considered and passed Senate.

○

Public Law 101-119
101st Congress

An Act

To provide assistance for free and fair elections in Nicaragua.

Oct. 21, 1989
[H.R. 3385]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That of the amounts remaining unexpended from funds allocated to the Agency for International Development, up to $3,000,000 of the funds made available by section 9 of Public Law 100-276, and up to $6,000,000 of the funds made available by section 2 of Public Law 101-14, may be used by the Administrator of the Agency for International Development, notwithstanding any other provision of law, for assistance for the promotion of democracy and national reconciliation in Nicaragua: *Provided,* That such assistance may be made available only as follows: (1) up to $5,000,000 in assistance to internal groups, such as support for political organizations and alliances, independent elements of the media, independent labor unions, and business, civic, and professional groups through and consistent with the charter and standard operating procedures of the National Endowment for Democracy; and for support for the election process and monitoring including, but not limited to the organizations specified in proviso 2(c) below, and (2) up to $4,000,000 (a) for election support intended to ensure the conduct of free, fair, and open elections through and consistent with the charter of the National Endowment for Democracy (which may include contributions through the National Opposition Union to the Supreme Electoral Council as necessary); (b) for support for the election process and monitoring; and (c) of which not less than $400,000 shall be made available for the Council of Freely-Elected Heads of Government, and of which not less than $250,000 shall be made available for the Center for Democracy and of which not less than $400,000 shall be made available for the Center for Training and Election Promotion: *Provided further,* That the provisions of sections 7, 8, and 9 of Public Law 101-14 shall be applicable to funds made available by this Act: *Provided further,* That the Agency for International Development shall report to the appropriate Committees of Congress prior to obligation of funds: *Provided further,* That all travel by Members of Congress conducted pursuant to the upcoming Presidential elections in Nicaragua shall be in accordance with section 1754, title 22, United States Code: *Provided further,* That it is the sense of Congress that the National Opposition Union's representative on the Supreme Electoral Council will seek to ensure that any funds going to the Supreme Electoral Council are used solely for technical electoral purposes, such as ballot boxes and ballot printing: *Provided further,* That funds made available by this Act shall remain available until February 28, 1990.

Reports.

Approved October 21, 1989.

LEGISLATIVE HISTORY—H.R. 3385:

HOUSE REPORTS: No. 101-265, Pt. 1 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 4, considered and passed House.
Oct. 12, 13, 17, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Oct. 21, Presidential statement.

○

Public Law 101-120
101st Congress

An Act

Oct. 23, 1989
[H.R. 1300]

To amend the Head Start Act to increase the amount authorized to be appropriated for fiscal year 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Head Start Supplemental Authorization Act of 1989.
42 USC 9801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Head Start Supplemental Authorization Act of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended by striking "$1,405,000,000" and inserting "$1,552,000,000".

Approved October 23, 1989.

LEGISLATIVE HISTORY—H.R. 1300:

HOUSE REPORTS: No. 101-12 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
    Mar. 21, considered and passed House.
    Oct. 5, considered and passed Senate.

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39-139 O - 89 (120)

Public Law 101-121
101st Congress

An Act

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

Oct. 23, 1989
[H.R. 2788]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $442,084,000, of which the following amounts shall remain available until expended: not to exceed $1,200,000, to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a(i)), and $22,903,000 for the Automated Land and Mineral Record System Project: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors.

FIREFIGHTING

For necessary expenses for emergency rehabilitation, forest firefighting, fire presuppression, and other emergency costs on Department of the Interior lands, $311,500,000, to remain available until expended, of which $193,761,000 is for the Bureau of Land Management, $16,250,000 is for the United States Fish and Wildlife Service, $34,464,000 is for the National Park Service, $67,025,000 is for the Bureau of Indian Affairs: *Provided,* That such funds are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $5,961,000, to remain available until expended: *Provided,* That necessary procurement documents for construction of the Oregon

Trail Visitor Center at Flagstaff Hill, Oregon shall be issued at a time that will permit issuance of a construction contract in February, 1991.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $12,610,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $64,787,000, to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876): *Provided further,* That notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of the Interior, to remain available until expended, an amount equal to 50 per centum of timber receipts received by the Treasury from the harvesting of timber on the revested Oregon and California Railroad grant lands and the Coos Bay Wagon Road grant lands during fiscal year 1989 in excess of $174,800,000, the 1989 Oregon and California Railroad grant lands and Coos Bay Wagon Road grant lands timber receipts contained in the President's budget proposal for fiscal year 1990: *Provided further,* That this estimate of 1989 receipts shall not be subject to adjustment for the purposes of this section: *Provided further,* That such funds shall be made available concurrent with payment of fiscal year 1989 receipt amounts to counties during fiscal year 1990, and shall be in addition to any funds appropriated in this Act: *Provided further,* That this transaction will not affect, diminish, or otherwise alter the payments to be made on the basis of these receipts in accordance with the Acts of August 28, 1937 (43 U.S.C. 1181f(a)) and May 24, 1939 (43 U.S.C. 1181f-1): *Provided further,* That funds made available to the Secretary of the Interior pursuant to this provision shall be used for necessary expenses relating to the Oregon and California Railroad grant lands and Coos Bay Wagon Road grant lands for reforestation and forest development and timber management: *Provided further*, That not later than 30 days after the submission of the President's fiscal year 1991 budget, the Director of the Bureau of Land Management shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this provision and shall include an assessment of resource outputs to be produced in fiscal year 1990, fiscal year 1991, and subsequent years, using funds made available under this provision, and a comparison of the outputs for the program areas listed, achieved in fiscal year 1990 and proposed for fiscal year 1991, with the output levels described in Bureau of Land Management resource management plans in effect at the time of the report required by this provision.

Reports.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $8,406,000, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided*, That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

43 USC 1735 note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau: *Provided further,* That notwithstanding section 5901(a) of title 5, United States Code, the uniform allowance for each uniformed employee of the Bureau of Land Management shall not exceed $400 annually: *Provided further,* That notwithstanding the provisions of the Federal Grants and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Bureau is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals, to implement challenge cost-share programs.

43 USC 1752 note.

Contracts.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $397,956,000 of which $5,750,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $8,001,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $1,000,000 shall be for contaminant sample analysis, and shall remain available until expended: *Provided*, That notwithstanding any other provision of law, a procurement for the National Wetlands Research Center shall be issued which includes the full scope of the previously issued procurement for the facility: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $58,560,000 to remain available until expended, of which $1,800,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $67,990,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $9,000,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 187 passenger motor vehicles, of which 180 are for replacement only (including 77 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That notwithstanding any other provision of law, only those personnel and administrative costs directly related to acquisition of real property shall be charged against the Migratory Bird Conservation Account.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $464,000 for the Roosevelt Campobello International Park Commission, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $778,419,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $55,500,000 to remain available until expended is to be derived from the special fee account established pursuant to 16 USC 20b note. title V, section 5201, of Public Law 100-203: *Provided*, That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further*, That of the funds provided herein, $500,000 is available for the National Institute for the Conservation of Cultural Property: *Provided further*, That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further* That the National Park Service shall prepare an Environmental Impact Statement in full compliance with the National Environmental Policy Act of 1969 that evaluates alternative levels of development within the

Appalachian Trail corridor between the Shrewsbury-Mendon town line, on the south, and the junction of the Appalachian and Long Trails north of Sherburne Pass, on the north, in Rutland County, Vermont: *Provided further,* That negotiations shall be suspended for any land acquisitions or easements in the study area and no acquisitions or easements in the study area shall be executed until 60 calendar days after the final Environmental Impact Statement is filed: *Provided further,* That the Secretary of the Interior shall take no action to give force or effect or implement in any manner the easement signed January 19, 1989, between the National Park Service and Killington, Ltd., Inc., until 60 calendar days after the final Environmental Impact Statement is filed.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $16,136,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $32,750,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1990: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation: *Provided further,* That $1,000,000 of the amount appropriated herein shall remain available until expended in the Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1990 shall include consideration of such factors as—

(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1990;

(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1990; and

(C) the availability of matching contributions in the State: *Provided further,* That no State shall receive more than 15 per centum of the Bicentennial Lighthouse Fund in any one fiscal year, nor more than 10 per centum of the total appropriations to the Fund in any two fiscal year period: *Provided further,* That only the light station structure, itself, shall be counted in determining the number of properties in each State eligible to participate in the Fund: *Provided further,* That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $199,716,000, to remain available until expended: *Provided,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $12,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

16 USC 406*l*-10a note.

The contract authority provided for fiscal year 1990 by 16 U.S.C. 4601-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $88,556,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, including $3,300,000 to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $406,000 shall be available in 1990 for administrative expenses of the State grant program: *Provided further,* That of the amount provided above, $800,000 is for acquisition of the Saxton House, 331 South Market Street, Canton, Ohio, as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462 (e)): *Provided further,*

16 USC 396f.

That section 317 of Public Law 98-146 is amended by adding the following: "The land owner may also use the credits in exchange for excess lands, wherever located, under the jurisdiction of the Secretary of the Interior.".

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $9,193,000, of which $4,000,000 shall remain available until expended.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 386 passenger motor vehicles, of which 332 shall be for replacement only, including not to exceed 285 for police-type use, 17 buses, and 5 ambulances; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided*, That any no year funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further*, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further*, That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

Reports.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $484,709,000, of which $59,783,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 27 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $178,525,000, of which not less than $56,060,000 shall be available for royalty management activities: *Provided,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine clean-up activities: *Provided further,* That of the above enacted amounts, up to $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project: *Provided further,* That of the above enacted amounts, up to one-half of the increase over the fiscal year 1989 funding provided for mineral royalty audits may be used to compensate States and Indian tribes for audit activities under the provisions of sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982

(30 U.S.C. 1732, 1735): *Provided further,* That for fiscal year 1990 and each fiscal year thereafter, notwithstanding the provisions of section 201 of the Federal Oil and Gas Royalty Management Act of 1982, sections 202 through 206 of that Act shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337), which, for purposes of those provisions and for no other purposes, shall be regarded as within the coastal State or States entitled to receive revenues from it under section 8(g): *Provided further,* That notwithstanding any other provision of law, $64,000 under this head shall be available for refunds of overpayments made by Samedan Oil Corporation in connection with certain Indian leases in Oklahoma (Case No. MMS-85-0135-IND before the Director of the Minerals Management Service) and by Bow Valley Petroleum Corporation and Mapco in connection with certain Indian leases in Utah in which the Director concurred with the claimed refund due.

Contracts.
30 USC 1731a.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $174,759,000, of which $105,035,000 shall remain available until expended: *Provided,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation: *Provided further,* That the Secretary is authorized to convey in fee the decommission Keyes Helium Plant in Keyes, Oklahoma, to the Cimarron Industrial Park Authority, a public trust of the State of Oklahoma, on or before September 30, 1990, on terms mutually agreed on between the Secretary and the Authority: *Provided further,* That prior to conveyance, the Secretary shall complete the current effort to repair asbestos insulation on piping and equipment, including cleanup and disposal of asbestos containing debris: *Provided further,* That, as a condition of conveyance, the Cimarron Industrial Park Authority shall accept full responsibility for any remedial actions with respect to hazardous substance remaining at the plant after the date of conveyance.

Oklahoma.

Hazardous materials.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the

Gifts and property.

Chemicals.
Minerals and mining.

Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $101,228,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1990: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1990 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program: *Provided further,* That the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

30 USC 1211 note.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, $192,772,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further,* That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

State and local governments.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $1,035,534,000, including $54,000,000 for conversion of tribal contracts and agreements to a calendar year basis as authorized by section 204(d)(1) of Public Law 100-472 (100 Stat. 2291), and of which not to exceed $71,393,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1991, and of which $2,180,000 for litigation support shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1991: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,002,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That $200,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the tribe or individual has been provided with an accounting of such funds: *Provided further,* That $250,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further,* That if the actual amounts required in this account for costs of the Federal Employee Retirement System in fiscal year 1990 are less than amounts estimated in budget documents, such excess funds may be transferred to "Construction" and "Miscellaneous Payments to Indians" to cover the costs of the retirement system in those accounts: *Provided further,* That for the purpose of enabling Indian reservation residents in Arizona who are eligible for General Assistance and who have dependent children to participate and succeed in Jobs Corps training, the Bureau shall pay general assistance support for the dependent children at the full State AFDC A-2 grant level.

Grants.
Close Up
Foundation.

Arizona.
Employment
and
unemployment

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; maintenance of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $134,226,000, to remain available until expended: *Provided,* That $1,000,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further,* That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further,* That hereafter, notwithstanding any other provision of law, amounts collected from grantees by the Secretary as grant repayments required under the Secretary's regulations for the Housing Improvement Program shall be credited in the year collected and shall be available for obligation under the terms and conditions applicable to the Program under that year's appropriation: *Provided further,* That all obligated and unobligated

25 USC 13 note.

balances of "Road Construction" shall be merged with "Construction".

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, 99-503, 100-383, 100-512, 100-675, 100-580, 101-41, and 100-585, including funds for necessary administrative expenses, $191,864,000, to remain available until expended, of which not to exceed $12,700,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503: *Provided,* That notwithstanding any other provision of law, funds appropriated pursuant to Public Law 100-383 shall not be subject to the provisions of 43 U.S.C. 1606(i).

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93-531, as amended (25 U.S.C. 640d-30), including necessary administrative expenses, $800,000, to remain available until expended.

REVOLVING FUND FOR LOANS

During fiscal year 1990, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $4,767,000, to remain available until expended: *Provided,* That during fiscal year 1990, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

MISCELLANEOUS TRUST FUNDS

Notwithstanding any other provision of law, the Secretary shall retain the amount of excess interest drawn from the Treasury during the period of January 1, 1987, to February 28, 1989, to compensate the trust funds for the amount of interest that would have been earned had all available trust funds been invested in the Treasury during the period from June 30, 1985, to December 31, 1986.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 162 passenger carrying motor vehicles, of which not to exceed 115 shall be for replacement only: *Provided,* That the

Washington.
Indians.
Real property.
Conservation.

property known as "Madrona Point" located on Orcas Island, Washington, shall be acquired in trust by the United States for the Lummi Indian Tribe under the conditions that it shall be preserved in its natural condition and shall not be developed for any commerical or residential purpose, except for a caretaker dwelling, a visitor or cultural center, or the interment of human remains: *Provided further,* That now and hereafter, the tribe, by contract, may impose additional restrictions: *Provided further,* That after acquisition by the United States, the property shall permanently be subject to the civil, regulatory (not including tax) and criminal jurisdiction of the State of Washington and its political subdivisions, concurrently with the Lummi Indian Tribe: *Provided further,* That except as provided herein, such grant of jurisdiction to the State shall have the same limitations as set forth in 18 U.S.C. 1162(b).

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $76,489,000, of which (1) $73,543,000 shall be available until expended for technical assistance; maintenance assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); grants and construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,946,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further,* That $935,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further,* That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the

48 USC 1401f, 1423*l*, 1665.

48 USC 1469b.

Grants.
Close Up Foundation.

Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets).

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $33,339,000, including $3,000,000 to reduce the accumulated deficit of the former Trust Territory Government: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1990, shall be credited as an offset against fiscal year 1990 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1990: *Provided further*, That any unobligated balances for Palau government operations that remain available on the date of Compact implementation shall be used by the Department of the Interior to reduce the accumulated deficit of the Trust Territory Government.

48 USC 1683.

48 USC 1682.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $23,260,000, to remain available until expended, as authorized by Public Law 99-239: *Provided*, That notwithstanding the provisions of Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Alaska. Petroleum and petroleum products.

For necessary expenses of the Office of the Secretary of the Interior, $51,045,000, of which not to exceed $10,000 may be for official reception and representation expenses: *Provided,* That Alaskan oil spill damage assessment shall continue at least through September 30, 1990.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $25,325,000.

OFFICE OF INSPECTOR GENERAL

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $20,737,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $1,800,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

25 USC 2717a.

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100-497, $750,000: *Provided,* That in fiscal year 1990 and thereafter, fees collected pursuant to and as limited by section 18 of the Act shall be available to carry out the duties of the Commission, to remain available until expended.

OILSPILL EMERGENCY FUND

Environmental protection.

Funds made available under this head by the "Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989" shall be available up to a limit equivalent to the amount of funds appropriated by said Act for contingency planning, response, and natural resource damage assessment activities related to any discharge of oil in waters of the United States upon a determination by the Secretary of the Interior that such funds are necessary for the protection or restoration of natural resources under his jurisdiction.

ADMINISTRATIVE PROVISIONS

Gifts and property.

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Public buildings and grounds.

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, or volcanoes; for contingency planning subsequent to actual oilspills, response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C.

3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 108. Notwithstanding any other provisions of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 109. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the Eastern Gulf of Mexico planning area of the Department of the Interior which lie south of 26 degrees North latitude and east of 86 degrees West longitude.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of publishing draft environmental impact statements until five months after the President's Outer Continental Shelf Task Force releases its report to the President on Lease Sales 91, 95 and 116 or for the conduct in fiscal year 1990 of leasing activities (including final environmental impact statements, notices of sale, receipt of bids and award of leases), or the approval or permitting of any drilling or other prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease exploration activity within the area identified by the Department of the Interior in the Draft Environmental Impact Statement (MMS 87-0032) for Lease Sale 91 in the Northern California planning area issued December, 1987; in the Calls for Information for Lease Sale 95 in the Southern California planning area, published in the Federal Register on July 9, 1987 (52 Fed. Reg. 25956) and November 17, 1988 (53 Fed. Reg. 46590); or in the Call for Information for Lease Sale 119 in the

Central California planning area, published in the Federal Register on November 16, 1988 (53 Fed. Reg. 46422).

SEC. 113. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing activities (including notices of sale, receipt of bids and award of leases) or the approval or permitting of any drilling or other prelease geological or geophysical activity which involves explosives or the introduction of drilling muds for prelease exploration activity within an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree West longitude line south along that longitude line to its intersection with the line which passes between blocks 423 and 467 on Outer Continental Shelf protraction diagram NK 19-10; then southwesterly along a line 50 miles seaward of the States of Rhode Island, Connecticut, New York, New Jersey, Delaware, and Maryland to its intersection with the 38 degree North latitude line; then westerly along the 38 degree North latitude line until its approximate intersection with the seaward limit of the State of Maryland territorial sea; then northeasterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree West longitude line.

SEC. 114. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities (including but not limited to: calls for information, tract selection, environmental impact statements, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190; or of lands within the 400 meter isobath surrounding Georges Bank, identified by the Department of the Interior as consisting of the following blocks: in protraction diagram NJ 19-2, blocks numbered 12-16, 54-55 and 57-58; in protraction diagram NK 19-5, blocks numbered 744, 788, 831-832, and 1005-1008; in protraction diagram NK 19-6, blocks numbered 489-491, 532-537, 574-576, 578-581, 618-627, 661-662, 664-671, 705-716, 749-761, 793-805, and 969-971; in protraction diagram NK 19-8, blocks numbered 37-40, 80-84, 124-127, and 168-169; in protraction diagram NK 19-9, blocks numbered 13-18, 58-63, 102-105, 107-108, 146-149, 151-152, 191-193, 195-197, 235-237, 240-242, 280-282, 284-286, 324-331, 368-376, 412-420, 456-465, 500-510, 543-554, 587-594, 596-599, 631-637, 640-644, 675-688, 718-733, 762-778, 805-821, 846-865, 887-891, 894-908, 930-950, and 972-994; in protraction diagram NK 19-10, blocks numbered 474-478, 516-524, 560-568, 604-612, 647-660, 692-704, 737-748, 787-792, 830-836, 873-880, 967-968, and 1011-1012; in protraction diagram NK 19-11, blocks numbered 621-632, 665-676, 700, 709-720, 744, 753-764, 785, 797-808, 825-827, 841-852, 856-860, 869, 890-905, 907-909, 929-931, 941-945, 947-949, 973-975, and 985-989; and in protraction diagram NK 19-12, blocks numbered 452-456, 495-499, 536-537, 539-541, 575-577, 579-582, 617-621, 623-624, 661-662, 664-665, and 705-706.

SEC. 115. Notwithstanding any prior designation by the Secretary of the Interior pursuant to section 17 of Public Law 100-440 (102 Stat. 1743), the Secretary shall designate, within 60 days of enactment of this Act, which Department of the Interior agency compo-

Maryland.

nent or headquarters operation is to be relocated to Avondale, Maryland, no later than 90 days after the Administrator of General Services determines that design and alteration of the facility is completed.

SEC. 116. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with Federally appropriated amounts from the Land and Water Conservation Fund.

SEC. 117. The provision of section 116 shall not apply if the transfer of management or control is ratified by law.

25 USC 2703 note.

SEC. 118. Notwithstanding any other provision of law, the term "Class II gaming" in Public Law 100-497, for any Indian tribe located in the State of Minnesota, includes, during the period commencing on the date of enactment of this Act and continuing for 365 days from that date, any gaming described in section 4(7)(B)(ii) of Public Law 100-497 that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdication over the lands on which such gaming was operated, requested the State of Minnesota, no later than 30 days after the date of enactment of Public Law 100-497, to negotiate a tribal-state compact pursuant to section 11(d)(3) of Public Law 100-497.

Effective date.

SEC. 119. This section shall be effective only on October 1, 1989. None of the funds available under this title may be used to prepare reports on contacts between employees of the Department of the Interior and Members and Committees of Congress and their staff.

SEC. 120. Section 13 of Public Law 93-531, as amended (25 U.S.C. 640d-12), is hereby amended by inserting the word "and" after the semicolon at the end of subparagraph (b)(2), by striking out the semicolon and the word "and" after the word "subsection" at the end of subparagraph (b)(3) and inserting a period in lieu thereof, and by striking out all of subparagraph (b)(4): *Provided*, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is hereby amended by inserting after subsection (d) the following new subsection:

Indians.

"(e) By December 1, 1989, the Secretary of the Interior, with the advice of the Navajo Tribe and the Office of Navajo and Hopi Indian Relocation, shall submit to the Congress a conceptual framework for the expenditure of the funds authorized for the Navajo Rehabilitation Trust Fund. Such framework is to be consistent with the purposes described in subsection (d) of this section.": *Provided further*, That section 32 of Public Law 93-531, as amended (25 U.S.C. 640d-30), is further amended by redesignating subsection (e) as subsection (f), and by redesignating subsection (f) as subsection (g).

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $147,182,000, to remain available until September 30, 1991.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $105,506,000, to remain available until expended, as authorized by law: *Provided,* That a grant of $3,000,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495: *Provided further,* That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for completion of the Spokane River Centennial Trail: *Provided further,* That a grant of $6,000,000 shall be made to the National Arbor Day Foundation as a matching grant for the construction of the National Arbor Day Center in Nebraska City, Nebraska.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,149,232,000, to remain available for obligation until September 30, 1991, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601-6a): *Provided,* That appropriations in this account remaining unobligated at the end of fiscal year 1989, both annual and two-year funds, and which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1990 National Forest System appropriation, and shall remain available for obligation until September 30, 1991.

FOREST SERVICE FIREFIGHTING

For necessary expenses for forest fire suppression and presuppression on or adjacent to National Forest System lands or Department of the Interior lands, and for forest fire protection and emergency forest fire rehabilitation of National Forest System lands, $561,139,000, to remain available until expended: *Provided,* That such funds are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $221,960,000, to remain available until expended, of which $38,993,000 is for construction and acquisition of buildings and other facilities; and $182,967,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205, of which $1,500,000 shall be available for the Federal share of road reconstruction for the purpose of improved access to the Monongahela National Forest, West Virginia, which shall be matched on an equal basis by non-Federal participants: *Provided,* That funds becoming available in fiscal year 1990 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That not to exceed $112,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $63,433,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,068,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $30,000 to remain available until expended, to be derived from the fund established pursuant to the above Act: *Provided,* That unexpended balances of amounts previously appropriated for this purpose under the heading "Miscellaneous trust funds, Forest Service" may be transferred to and merged with this appropriation for the same time period as originally enacted.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 185 passenger motor vehicles of which 11 will be used primarily for law enforcement purposes and of which 169 shall be for replacement only, of which acquisition of 132 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 43 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest, and for timber sales preparation to replace sales lost to fire or other causes, and sales preparation to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above: *Provided*, That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1990 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended: *Provided further*, That amounts necessary shall be available from deposits into the salvage sale fund for salvage of timber damaged by Hurricane Hugo to the maximum extent possible without regard to the geographic origin of the funds.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Forest Service programs.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408

Contracts.

Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals to continue the Challenge Cost-Share Program.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided*, That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available until expended, all National Forest Fund timber receipts received by the Treasury during fiscal year 1989 from the harvesting of National Forest Timber in excess of

$920,000,000, the 1989 National Forest Fund timber receipts contained in the President's Budget proposal for fiscal year 1990: *Provided*, That such excess amount made available for the overall purposes of this section shall not exceed $65,000,000: *Provided further*, That an additional $32,000,000 shall not be subject to the per centum allocations of subsequent provisions of this section and shall be made separately available solely for implementation of the timber sales program included in this Act as described in the accompanying statement of the managers and shall be used solely for the necessary expenses of such timber sales program including, but not limited to, timber sales administration and management (including all timber support costs) and construction and design of roads: *Provided further*, That the $32,000,000 shall only be provided after all other sources of funds, appropriated and nonappropriated, have been utilized to the fullest extent possible: *Provided further*, That this estimate of 1989 receipts shall not be adjusted for the purposes of this section: *Provided further*, That such funds shall be made available during fiscal year 1990, and shall be in addition to any funds appropriated in this Act: *Provided further*, That this transaction will be made without reductions for the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided further*, That funds made available to the Secretary of Agriculture pursuant to this provision shall be used for the necessary expenses, including support costs of the National Forest System programs as follows: 6 per centum for National Forest trail maintenance; 4 per centum for National Forest trail construction; 20 per centum for wildlife and fish habitat management; 20 per centum for soil, water, and air management; 5 per centum for cultural resource management; 5 per centum for wilderness management; 10 per centum for reforestation and timber stand improvement; and 30 per centum for timber sales administration and management, including all timber support costs, for advanced preparation work for fiscal year 1991 and fiscal year 1992 timber sale offerings: *Provided further*, That not later than 30 days after the submission of the President's fiscal year 1991 budget, the Chief of the Forest Service shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1990, fiscal year 1991, and subsequent years, using funds made available under this section, and a comparison of the outputs achieved in fiscal year 1990 and proposed for fiscal year 1991, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section.

Reports.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), $52,441,000 shall be available for timber supply, protection and management, research, resource protection, and construction on the Tongass National Forest in fiscal year 1990: *Provided*, That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1990 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1989 and shall remain available until expended: *Provided further*, That this funding limitation shall not include those funds available to the Forest Service as National Forest System (except for timber sales administration and management funds), Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), Timber Receipts, or Purchaser Road Construction.

Davis Sheep Company. Idaho.

Notwithstanding any other provision of law, the Forest Service is directed to compensate Davis Sheep Company, Monteview, Idaho, for reasonable expenses incurred as a result of mortality of permitted animals and moving permitted animals from one location to another as directed by the Forest Service: *Provided*, That in no event should expenses be less than $85,000: *Provided further*, That up to an additional $27,500 is authorized if the Forest Service, in conjunction with Davis Sheep Company, determines additional losses were incurred: *Provided further*, That no funds provided in this title may be expended by the Forest Service to implement a new fee schedule or increase the fees charged for communication site use of lands administered by the Forest Service above the levels in effect on January 1, 1989.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $600,000,000 shall be made available on October 1, 1990, and shall remain available until expended, and $600,000,000 shall be made available on October 1, 1991, and shall remain available until expended: *Provided*, That projects selected pursuant to a separate general request for proposals issued pursuant to each of these appropriations shall demonstrate technologies capable of replacing, retrofitting or repowering existing facilities and shall be subject to all provisos contained under this head in Public Laws 99-190, 100-202, and 100-446 as amended by this Act: *Provided further*, That the general request for proposals using funds becoming available on October 1, 1990, under this paragraph shall be issued no later than June 1, 1990, and projects resulting from such a solicitation must be selected no later than February 1, 1991: *Provided further*, That the general request for proposals using funds becoming available on October 1, 1991, under this paragraph shall be issued no later than September 1, 1991, and projects resulting from such a solicitation must be selected no later than May 1, 1992.

102 Stat. 1810.

The first paragraph under this head in Public Law 100-446 is amended by striking "$575,000,000 shall be made available on October 1, 1989" and inserting "$450,000,000 shall be made available on October 1, 1989, and shall remain available until expended, and $125,000,000 shall be made available on October 1, 1990": *Provided*, That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

With regard to funds made available under this head in this and previous appropriations Acts, unobligated balances excess to the needs of the procurement for which they originally were made available may be applied to other procurements for which requests for proposals have not yet been issued: *Provided*, That for all procurements for which project selections have not been made as of the date of enactment of this Act no supplemental, backup, or contingent selection of projects shall be made over and above projects originally selected for negotiation and utilization of available funds: *Provided further*, That reports on projects selected by the Secretary of Energy pursuant to authority granted under this heading which are received by the Speaker of the House of Representatives and the President of the Senate less than 30 legislative days prior to the end of the first session of the 101st Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate or at the end of the session, whichever occurs later. Reports.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $422,062,000, to remain available until expended, of which $249,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and of which $4,000,000 shall be available for continued construction of DOE Fossil Energy building B26: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $40,900,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided*, That 35 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1990, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year: *Provided further*, That section 303 of Public Law 97-257 is further amended by changing the number for the Office of the Assistant Secretary for Fossil Energy to "715", changing the number for the Pittsburgh Energy Technology Center to "290", changing the number for the Morgan- 96 Stat. 873.

town Energy Technology Center to "275", and changing the number for the headquarters organization of the Assistant Secretary for Fossil Energy to "not less than 125"

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1989, shall be deposited in this account and immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $192,124,000, to remain available until expended: *Provided,* That sums in excess of $510,000,000 received during fiscal year 1990 as a result of the sale of products produced from Naval Petroleum Reserves Numbered 1 and 3 shall be deposited in the "SPR petroleum account", to remain available until expended, for the acquisition and transportation of petroleum and for other necessary expenses.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $413,262,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1990 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided,* That $203,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1989: *Provided further,* That $16,900,000 of the amount provided under this heading shall be available for continuing research and development efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190), and implementation of steel and aluminum research authorized by Public Law 100-680: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $18,300,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,641,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $194,999,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $227,820,000, to remain available until expended: *Provided,* That an additional $108,458,000 shall be made available until expended beginning October 1, 1990: *Provided further,* That notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $65,232,000, of which $1,000,000 for computer operations shall remain available until September 30, 1991, and $2,000,000 for end use energy consumption surveys shall remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

Gifts and property.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

Contracts.
Reports.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Loans.
42 USC 8814 note.

Notwithstanding 31 U.S.C. 3302, funds derived from the sale of assets as a result of defaulted loans made under the Department of Energy Alcohol Fuels Loan Guarantee program, or any other funds received in connection with this program, shall hereafter be credited to the Biomass Energy Development account, and shall be available solely for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program for loans guaranteed prior to January 1, 1987

42 USC 8814 note.

Unobligated balances available in the "Alternative fuels production" account may hereafter be used for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program, subject to the determination by the Secretary of Energy that such unobligated funds are not needed for carrying out the purposes of the Alternative Fuels Production program: *Provided,* That the use of these unobligated funds for payment of defaulted loans and associated costs shall be available only for loans guaranteed prior to January 1, 1987: *Provided further,* That such funds shall be used only after the unobligated balance in the Department of Energy Alcohol Fuel Loan Guarantee reserve has been exhausted.

Contracts.

Annual appropriations made in this Act and previous Interior and Related Agencies Appropriations Acts shall be available for obligations in connection with contracts issued by the Department of Energy for supplies and services for periods not in excess of twelve months beginning at any time during the fiscal year.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXV and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,185,910,000, including $16,000,000 for conversion of tribal contracts and agreements to a calendar year basis as authorized by section 204(d)(1) of Public Law 100–472 (100 Stat. 2291), together with payments received during the fiscal year pursuant to 42 U.S.C. 300cc–2 for services furnished by the Indian Health Service: *Provided,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act): *Provided further,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until expended: *Provided further,* That $17,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further,* That of the funds provided, $3,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That of the funds provided, $2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1991: *Provided further,* That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act and Public Law 100–713 shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

Reports.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $70,996,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, if such care can be extended without impairing the ability of the facility to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act or in the case of tribally administered facilities, shall be retained by the tribal organization without fiscal year limitation: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided* 25 USC 1681. *further,* That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act of 1988, $74,149,000 of which $55,041,000 shall be for subpart 1 and $16,361,000 shall be for subparts 2 and 3: *Provided*, That $1,600,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1991: *Provided further*, That appropriations for subpart 2 remaining unobligated at the end of fiscal year 1989, which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1990 Indian Education appropriation and shall remain available for obligation until September 30, 1990.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, $36,818,000, to remain available until expended: *Provided*, That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10: *Provided further*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Salaries and expenses, Navajo and Hopi Indian Relocation Commission" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99-498, as amended (20 U.S.C. 56, part A), $4,350,000, of which not to exceed $350,000 for Federal matching contributions, to remain available until expended, shall be paid to the Institute endowment fund, of which $100,000 shall be transferred immediately from the Institute endowment fund to the Institute for use in Institute operations: *Provided,* That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $228,553,000, of which not to exceed $2,176,000 for the instrumentation program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $6,500,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $26,769,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further,* That unexpended balances of amounts previously appropriated for this purpose under the heading "Restoration and renovation of buildings, Smithsonian Institution" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

Contracts.

CONSTRUCTION

For necessary expenses for construction, $8,320,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $40,712,000, of which not to exceed $2,370,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

Contracts.

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $1,805,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $4,700,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $144,105,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided,* That not less than thirty days prior to the award of any direct grant to the Southeastern Center for Contemporary Art (SECCA) in Winston-Salem, North Carolina, or for the Institute of Contemporary Art at the University of Pennsylvania, the National Endowment for the Arts shall submit to the Committees on Appropriations of the House and Senate a notification of its intent to make such an award: *Provided further,* That said notification shall delineate the purposes of the award which is proposed to be made and the specific criteria used by the Endowment to justify selection of said award.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $27,150,000, to remain available until September 30, 1991, to the National Endowment for the Arts, of which $15,150,000 shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $132,430,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, of which $4,200,000 for the Office of Preservation shall remain available until September 30, 1991.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $26,700,000, to remain available until September 30, 1991, of which $14,700,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

Institute of Museum Services

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $22,675,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b): *Provided*, That the National Museum Services Board shall not meet more than three times during fiscal year 1990.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

Commission of Fine Arts

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $516,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $5,500,000: *Provided*, That Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, is amended further by striking "$5,000,000" and inserting in lieu thereof "$7,500,000".

Advisory Council on Historic Preservation

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,920,000: *Provided*, That none of the funds under this head may be used to process comments on undertakings of Federal agencies, as specified in sections 106 and 110 of the National Historic Preservation Act of 1966, as amended, on grants or contracts to institutions or facilities whose main activity is the conduct of scientific research and such agencies shall be relieved from the requirement of seeking comments on such undertakings unless requested in writing by the grantee: *Provided further*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $3,133,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1991.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,375,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,150,000, to remain available until expended.

LAND ACQUISITION AND DEVELOPMENT FUND

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $5,000,000, pursuant to the terms and conditions in paragraph 10, section 6, of Public Law 92-576, as amended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, as amended, $2,315,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

TITLE III—GENERAL PROVISIONS

Contracts.

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete: *Provided*, That— 20 USC 954 note.

(a) None of the funds authorized to be appropriated for the National Endowment for the Arts or the National Endowment for the Humanities may be used to promote, disseminate, or produce materials which in the judgment of the National Endowment for the Arts or the National Endowment for the Humanities may be considered obscene, including but not limited to, depictions of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts and which, when taken as a whole, do not have serious literary, artistic, political, or scientific value.

(b) It is the sense of the Congress:

(1) That under the present procedures employed for awarding National Endowment for the Arts grants, although the National Endowment for the Arts has had an excellent record over the years, it is possible for projects to be funded without adequate review of the artistic content or value of the work.

(2) That recently works have been funded which are without artistic value but which are criticized as pornographic and shocking by any standards.

(3) That censorship inhibits and stultifies the full expression of art.

(4) That free inquiry and expression is reaffirmed. Therefore, be it resolved:

(A) That all artistic works do not have artistic or humanistic excellence and an application can include works that possess both nonexcellent and excellent portions.

(B) That the Chairman of the National Endowment for the arts has the responsibility to determine whether such an application should be funded.

(C) That the National Endowment for the Arts must find a better method to seek out those works that have artistic excellence and to exclude those works which are without any redeeming literary, scholarly, cultural, or artistic value.

(D) That a commission be established to review the National Endowment for the Arts grant making procedures, including those of its panel system, to determine whether there should be standards for grant making other than "substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence" (20 U.S.C. 954(c)(1)) and if so, then what other standards. The criteria to be considered by the commission shall include but not be limited to possible standards where (a) applying contemporary community standards would find that the work taken as a whole appeals to a prurient interest; (b) the work depicts or describes in a patently offensive way, sexual conduct; and (c) the work, taken as a whole, lacks serious artistic and cultural value.

Establishment.

(c)(1) There is hereby established a temporary Independent Commission for the purpose of—

(A) reviewing the National Endowment for the Arts grant making procedures, including those of its panel system; and

(B) considering whether the standard for publicly funded art should be different than the standard for privately funded art.

(2) The Commission shall be composed of twelve members as follows:

(A) four members appointed by the President;

(B) four members appointed by the President upon the recommendation of the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives;

(C) four members appointed by the President upon the recommendation of the President pro tempore of the Senate in consultation with the minority leader of the Senate;

(D) the chairman shall be designated by vote of the Commission members; and

(E) a quorum for the purposes of conducting meetings shall be seven.

(3) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under 5 U.S.C. 5703.

(4) The Commission may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

Reports.

(5) The Commission shall issue a report to the Speaker of the House of Representatives and the President of the Senate no later than 180 days after the date of enactment of this Act.

(6) The Commission shall expire on September 30, 1990.

(7) Expenses of the Commission not to exceed $250,000, including administrative support, shall be furnished by the National Endowment for the Arts.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 308. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

Employment and unemployment.

SEC. 309. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

Contracts. State and local governments. Disaster assistance.

SEC. 310. Notwithstanding any other provision of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 311. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

16 USC 1604 note.

SEC. 312. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however,* That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing plan: *Provided further,* That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

Forests and forest products.

SEC. 313. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

Wages.
Government organization and employees.

SEC. 314. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

25 USC 1300i-8.

SEC. 315. Section 9(a)(3) of Public Law 100-580 (102 Stat. 2932) is amended by inserting after the term "Council." the following: "The Yurok Transition Team may receive grants and enter into contracts for the purpose of carrying out this section and section 10(a) of this Act. Such grants and contracts shall be transferred to the Yurok Interim Council upon its organization.": *Provided*, That using $750,000 appropriated in the Energy and Water Development Appropriations Act, 1990, under "General Investigations, Corps of Engineers—Civil", the Secretary of the Army, acting through the Chief of Engineers, is directed to continue engineering and design of the McCook and Thornton Reservoirs, which are features of the Chicagoland Underflow Plan: *Provided further*, That with respect to claims resulting from the performance of functions, during fiscal year 1990 only, or claims asserted after the effective date of this Act, but resulting from the performance of functions prior to fiscal year 1990, under a contract, grant agreement, or cooperative agreement authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) or by Title V, Part B—Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided further*, That upon the effective date of this legislation, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: *Provided further*, That beginning with the fiscal year ending September 30, 1991, and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: *Provided further*, That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.).

Claims.

Claims.

National Forest System.
Forests and forest products.
Environmental protection.

SEC. 316. Effective sixty days after enactment of this Act, the Forest Service is directed to assure an immediate supply of timber from the Kootenai National Forest and to protect the environment: *Provided*, That pending implementation of the Forest Service's final agency action on the Upper Yaak Decision Area, as defined in the Upper Yaak Draft Environmental Impact Statement, the Forest Service is directed to expeditiously prepare, offer, and supervise the harvest of timber from the lodgepole pine timber type, as defined in the Upper Yaak Draft EIS, in the Upper Yaak Decision Area: *Provided further*, That adequate environmental assessments for certain timber sales in the Upper Yaak Decision Area have been completed and are adequate, decision notices have been issued, no appeals have been filed, and the time period for appeals as specified in Forest Service regulations has expired: *Provided further*, That the Forest Service actions taken pursuant to this section shall comply with the Kootenai National Forest Plan: *Provided further*, That no construction of new system roads shall be permitted in the Upper Yaak River Drainage: *Provided further*, That this section does not in any manner represent a judgment upon the legal adequacy or in any way affect the final decision made in the development or implementation of the Upper Yaak Final EIS.

5 USC 5911 note.

SEC. 317. Section 320 of Public Law 98-473 (98 Stat. 1974) as amended by section 316 of Public Law 100-446 (102 Stat. 1826) is further amended by deleting the period and inserting ": *Provided*, That nothing contained herein shall prohibit an agreement between an Indian tribe or tribal organization and the Secretary of the Interior or the Secretary of Health and Human Services, pursuant to the Indian Self-Determination Act, as amended (25 U.S.C. 450 et seq.), under which such tribe or tribal organization may retain rents and charges for the operation, maintenance, and repair of such quarters.".

National Forest System.
Conservation.
Forests and forest products.
Oregon.
Washington.
Birds.

SEC. 318. (a) From funds appropriated under this Act or otherwise made available—

(1) The Forest Service shall offer, notwithstanding the provisions of the Federal Timber Contract Payment Modification Act of 1984 (16 U.S.C. 618(a)(5)(C)), an aggregate timber sale level of seven billion seven hundred million board feet of net merchantable timber from the national forests of Oregon and Washington for fiscal years 1989 and 1990. Such timber sales shall be consistent with existing land and resource management plans or land and resource management plans as approved except, in the case of the Mapleton Ranger District of the Siuslaw National Forest, Oregon, such sales shall be consistent with the preferred alternative of the draft land and resource management plan and accompanying draft environmental impact statement dated Octrober 1, 1986, pending approval of a final land and resource management plan for the Siuslaw National Forest: *Provided*, That of the seven billion seven hundred million board foot aggregate timber sale level for fiscal years 1989 and 1990, timber sales offered from the thirteen national forests in Oregon and Washington known to contain northern spotted owls shall meet an aggregate timber sale level for fiscal years 1989 and 1990 of five billion eight hundred million board feet of net merchantable timber: *Provided further*, That the sales volume shall be distributed in the same proportion between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volume for fiscal years 1986 through 1988.

(2) The Bureau of Land Management shall offer such volumes as are required in fiscal year 1990 to meet an aggregate timber sale level of one billion nine hundred million board feet for fiscal years 1989 and 1990 from its administrative districts in western Oregon.

Oregon.
Washington.

(b)(1) In accordance with subsection (b)(2) of this section, all timber sales from the thirteen national forests in Oregon and Washington known to contain northern spotted owls prepared or offered pursuant to this section shall minimize fragmentation of the most ecologically significant old growth forest stands. "Old growth forest stands" are defined as those stands meeting the criteria according to Forest Service Research Publication Numbered PNW-447. In those instances where the Forest Service, after consultation with the advisory boards established pursuant to subsection (c) of this section, determines that the definition in Forest Service Research Publication Numbered PNW-447 is not fully applicable in national forests known to contain northern spotted owls, the Forest Service shall use old-growth definitions contained in its Pacific Northwest Regional Guide.

(2) To the extent that fragmentation of ecologically significant old growth forest stands is necessary to meet the timber sale levels directed by subsection (a)(1) of this section, the Forest Service shall minimize such fragmentation in the ecologically significant old growth forest stands on a national forest-by-national forest basis based on the Forest Service's discretion in determining the ecologically significant stands after considering input from the advisory boards created pursuant to subsection (c) of this section. The habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas (SOHAs) described in subsection (b)(3) of this section shall be considered an important factor in the identification of ecologically significant old growth forest stands.

(3) No timber sales offered pursuant to this section from the thirteen national forests in Oregon and Washington known to contain northern spotted owls may occur within SOHAs identified pursuant to the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 as adjusted by this subsection:

(A) For the Olympic Peninsula Province, which includes the Olympic National Forest, SOHA size is to be 3,200 acres;

(B) For the Washington Cascades Province, which includes the Mt. Baker-Snoqualmie, Okanogan, Wenatchee, and Gifford-Pinchot National Forests, SOHA size is to be 2,600 acres;

(C) For the Oregon Cascades Province, which includes the Mt. Hood, Willamette, Rogue River, Deschutes, Winema, and Umpqua National Forests, SOHA size is to be 1,875 acres;

(D) For the Oregon Coast Range Province, which includes the Siuslaw National Forest, SOHA size is to be 2,500 acres; and

(E) For the Klamath Mountain Province, which includes the Siskiyou National Forest, SOHA size is to be 1,250 acres.

(F) All other standards and guidelines contained in the Chief's Record of Decision are adopted.

(4) In planning for the preparation and offer of timber sales authorized in subsection (a)(1) of this section, the Forest Service, to the extent possible in areas proximate to SOHA sites identified in subsection (b)(3) of this section, should exercise discretion in selecting sites and/or silvicultural prescriptions in order to retain spotted owl habitat characteristics in such areas. The Forest Service should consider the relative location and quality of such areas contiguous to the SOHAs and should give higher priority to preparing and offering sales in areas of lower quality and less important location than to areas of greater quality and more important location relative to the SOHAs.

(5) No timber sales offered pursuant to this section on Bureau of Land Management lands in western Oregon known to contain

northern spotted owls shall occur within the 110 areas identified in the December 22, 1987 agreement, except sales identified in said agreement, between the Bureau of Land Management and the Oregon Department of Fish and Wildlife. Not later than thirty days after enactment of this Act, the Bureau of Land Management, after consulting with the Oregon Department of Fish and Wildlife and the United States Fish and Wildlife Service to identify high priority spotted owl area sites, shall select an additional twelve spotted owl habitat areas. No timber sales may be offered in the areas identified pursuant to this subsection during fiscal year 1990.

(6)(A) Without passing on the legal and factual adequacy of the Final Supplement to the Environmental Impact Statement for an Amendment to the Pacific Northwest Regional Guide—Spotted Owl Guidelines and the accompanying Record of Decision issued by the Forest Service on December 8, 1988 or the December 22, 1987 agreement between the Bureau of Land Management and the Oregon Department of Fish and Wildlife for management of the spotted owl, the Congress hereby determines and directs that management of areas according to subsections (b)(3) and (b)(5) of this section on the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls is adequate consideration for the purpose of meeting the statutory requirements that are the basis for the consolidated cases captioned Seattle Audubon Society et al., v. F. Dale Robertson, Civil No. 89-160 and Washington Contract Loggers Assoc. et al., v. F. Dale Robertson, Civil No. 89-99 (order granting preliminary injunction) and the case Portland Audubon Society et al., v. Manuel Lujan, Jr., Civil No. 87-1160-FR. The guidelines adopted by subsections (b)(3) and (b)(5) of this section shall not be subject to judicial review by any court of the United States.

(B) The Forest Service is directed to review and revise as appropriate the decision adopted in the December 1988 Record of Decision referenced in subsection (b)(6)(A) of this section and shall consider any new information gathered subsequent to the issuance of the Record of Decision, including the interagency guidelines for conservation of northern spotted owls developed by the Interagency Scientific Committee to address conservation of the northern spotted owl. This review, and any resulting changes to the December 1988 decision determined to be necessary by the Forest Service are to be completed and in effect not later than September 30, 1990.

(c)(1) The Secretaries of Agriculture and the Interior shall name advisory boards on a national forest-by-national forest and Bureau of Land Management district-by-district basis which shall be comprised of not more than seven individuals who, in the appropriate Secretary's judgment, represent a diversity of views. In the process of selecting individuals to serve on the advisory boards, the Secretaries shall make every effort to recognize the diversity of views and perspectives and allow parties which represent a cross-section of those views to participate in making recommendations in the selection of board members, provided, that every effort will be made to ensure the advisory boards are comprised of an equal number of representatives of environmental and business concerns. The advisory boards shall be named not later than thirty days after enactment of this Act. The advisory boards shall provide recommendations to the Forest Service and the Bureau of Land Management in reviewing prospective timber sales which shall meet the timber sale levels directed by this section prior to their offer.

The advisory boards shall present their advice within fifteen or forty-five days after receipt of the necessary review documents. The fifteen-day period applies to single sales and the forty-five-day period applies to multiple sales. The members of the advisory boards authorized by this section shall serve without compensation or reimbursement of expenses. The Forest Service and the Bureau of Land Management are authorized to use available funds for the services of professional, independent facilitators to assist in the work of the advisory boards.

(2) The Forest Service and Bureau of Land Management shall consider the recommendations of the advisory boards once such boards are established pursuant to this section, including any suggested modifications of individual sales. The Forest Service and Bureau of Land Management shall also consider recommendations made by the United States Fish and Wildlife Service on those timber sales conferred upon under section 7(a)(4) or, if the spotted owl is listed as a threatened or endangered species, consult under section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1536(a)(2) and (a)(4)) prior to the offer of any subsequent timber sale in fiscal year 1990. These recommendations shall be considered regardless of whether the agreement provided in subsection (f)(1) of this section has been reached, entered into, and accepted by the relevant court. Adoption or rejection of such recommended modifications shall not require preparation of additional environmental documents, notwithstanding any other provision of law.

(d) Notwithstanding any other provision of law, there shall be not more than one level of administrative appeal of any decision by the Forest Service or the Bureau of Land Management to undertake any activity directed by this section for timber sales to be prepared, advertised, offered, and awarded during fiscal year 1990 from the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls. If an administrative stay is granted in any such appeal the Regional Forester or the Interior Board of Land Appeals shall issue a final decision on the merits within forty-five days of the date of issuance of such stay. Notwithstanding any other provision of law, any party seeking to challenge a decision made after the date of enactment of this Act to prepare, advertise, offer, or award a timber sale in fiscal year 1990 from the thirteen national forests and Bureau of Land Management lands in western Oregon known to contain northern spotted owls need not exhaust their administrative remedies prior to filing suit. Nothing in this subsection shall alter the administrative appeal requirements of the Forest Service or Bureau of Land Management.

(e) Nothing in this section shall affect interagency cooperation among the Forest Service, the Bureau of Land Management, and the United States Fish and Wildlife Service under sections 7(a)(2) and 7(a)(4) of the Endangered Species Act and its regulations.

(f)(1) Not later than two days after enactment of this Act, the Forest Service shall submit to plaintiffs in the captioned case Seattle Audubon Society et al., v. F. Dale Robertson, Civil No. 89-160, a list of sales which had been prepared for offer in fiscal year 1989 and which contain at least 40 acres of suitable spotted owl habitat. Not later than fourteen days after receipt of such list, plaintiffs to the suit referenced in this subsection may enter into an agreement with the Forest Service releasing for sale not less than one billion one hundred million board feet of net merchantable timber. Such sales must be available for advertisment not later than fourteen days after the agreement required by this subsection is reached. Such timber sales selected shall not be subject to further judicial review by any court of the United States.

(2) If the agreement specified in subsection (f)(1) of this section is reached, then those timber sales described in the list submitted to plaintiffs pursuant to subsection (f)(1) of this section but not contained in the agreement authorized by subsection (f)(1) of this section shall not be offered for sale in fiscal year 1990.

(3) If the agreement authorized under subsection (f)(1) of this section is not implemented within the timeframes prescribed in subsection (f)(1) of this section, one billion one hundred million board feet of net merchantable timber from such sales submitted to plaintiffs pursuant to subsection (f)(1) of this section shall be selected and modified as appropriate by the Forest Service in accordance with the provisions of this section. Selected sales shall be prepared, advertised, offered, awarded and operated notwithstanding any provision of law that is a basis for any stay, injunction or order issued in the proceeding identified in subsection (f)(1) of this section: *Provided,* That nothing in this subsection shall affect rights available under the Contract Disputes Act (41 U.S.C. 601 et seq.).

(4) The Forest Service shall, for each respective timber sale, lift its own stay or apply to the appropriate court for the lifting of the restraining order or injunction whose basis has been withdrawn by this section.

(5) Timber sales selection pursuant to subsections (f)(1) or (f)(3) of this section shall be based on the following criteria: (1) proportional distribution between Oregon and Washington national forests known to contain northern spotted owls based on the average sale volumes for fiscal years 1986 through 1988; (2) proportional distribution to the extent possible among the thirteen national forests known to contain northern spotted owls in Oregon and Washington based on the average sale volumes for fiscal years 1986 through 1988; and (3) to the extent possible, selection of sales outside the habitat of nesting pairs of spotted owls which are not in the Spotted Owl Habitat Areas described in subsection (b)(3) of this section.

(g)(1) No restraining order or preliminary injunction shall be issued by any court of the United States with respect to any decision to prepare, advertise, offer, award, or operate a timber sale or timber sales in fiscal year 1990 from the thirteen national forests in Oregon and Washington and Bureau of Land Management lands in western Oregon known to contain northern spotted owls. The provisions of section 705 of title 5, United States Code, shall not apply to any challenge to such a timber sale: *Provided,* That the courts shall have authority to enjoin permanently, order modification of, or void an individual sale if it has been determined by a trial on the merits that the decision to prepare, advertise, offer, award, or operate such sale was arbitrary, capricious or otherwise not in accordance with law: *Provided further,* That any challenge to a timber sale must be filed in Federal District Court within fifteen days of the date of initial advertisement of the challenged timber sale: *Provided further,* That for forty-five days after the date of filing of a challenge to a timber sale the affected agency shall take no action to award a challenged timber sale. Civil actions filed under this section shall be assigned for hearing at the earliest possible date and shall take precedence over all other matters pending on the docket of the court at that time except for criminal cases: *Provided further,* That the

Courts, U.S.

Courts, U.S.

court shall render its final decision relative to any challenge within forty-five days from the date such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits on filing briefs and motions and other actions which are shorter than the limits specified in the Federal rules of civil or appellate procedure.

(3) In order to reach a decision within forty-five days, the Federal District Court may assign all or part of any such case or cases to one or more Special Masters, for prompt review and recommendations to the court.

Reports.

(h) The Forest Service, the Bureau of Land Management, and the United States Fish and Wildlife Service shall submit reports updating their findings and progress as determined by the process recognized under subsection (e) of this section on a monthly basis to the President of the Senate and the Speaker of the House of Representatives for appropriate referral. Such reports shall also include information on the extent to which recommendations of the advisory boards established pursuant to subsection (c) of this section were integrated into timber sale decisions as well as reasons for modifying or not adopting recommendations made by the advisory boards. Such reports shall be submitted as directed beginning on December 1, 1989, and ending on September 30, 1990.

(i) Except for provisions of subsection (a)(1) of this section, the provisions of this section apply solely to the thirteen national forests in Oregon and Washington and Bureau of Land Management districts in western Oregon known to contain northern spotted owls. Nothing contained in this section shall be construed to require the Forest Service or Bureau of Land Management to develop similar policies on any other forest or district in Oregon or Washington.

(j) The advisory boards established under this section shall not be subject to the Federal Advisory Committee Act (86 Stat. 770).

(k) Timber sales offered to meet the requirements of subsection (a) of this section shall be subject to the terms and conditions of this section for the duration of those sale contracts. All other provisions of this section shall remain in effect until September 30, 1990.

SEC. 319. (a)(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end thereof the following new section:

Grants.
Loans.

"§ 1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions

"(a)(1) None of the funds appropriated by any Act may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal action described in paragraph (2) of this subsection.

"(2) The prohibition in paragraph (1) of this subsection applies with respect to the following Federal actions:

"(A) The awarding of any Federal contract.

"(B) The making of any Federal grant.

"(C) The making of any Federal loan.

"(D) The entering into of any cooperative agreement.

"(E) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

"(b)(1) Each person who requests or receives a Federal contract, grant, loan, or cooperative agreement from an agency or requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency, in accordance with paragraph (4) of this subsection—

"(A) a written declaration described in paragraph (2) or (3) of this subsection, as the case may be; and

"(B) copies of all declarations received by such person under paragraph (5).

"(2) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a Federal contract, grant, loan, or cooperative agreement shall contain—

"(A) a statement setting forth whether such person—

"(i) has made any payment with respect to that Federal contract, grant, loan, or cooperative agreement, using funds other than appropriated funds, which would be prohibited by subsection (a) of this section if the payment were paid for with appropriated funds; or

"(ii) has agreed to make any such payment;

"(B) with respect to each such payment (if any) and each such agreement (if any)—

"(i) the name and address of each person paid, to be paid, or reasonably expected to be paid;

"(ii) the name and address of each individual performing the services for which such payment is made, to be made, or reasonably expected to be made;

"(iii) the amount paid, to be paid, or reasonably expected to be paid;

"(iv) how the person was paid, is to be paid, or is reasonably expected to be paid; and

"(v) the activity for which the person was paid, is to be paid, or is reasonably expected to be paid; and

"(C) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).

"(3) A declaration filed by a person pursuant to paragraph (1)(A) of this subsection in connection with a commitment providing for the United States to insure or guarantee a loan shall contain—

"(A) a statement setting forth whether such person—

"(i) has made any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guaranty; or

"(ii) has agreed to make any such payment; and

"(B) with respect to each such payment (if any) and each such agreement (if any), the information described in paragraph (2)(B) of this subsection.

"(4) A person referred to in paragraph (1)(A) of this subsection shall file a declaration referred to in that paragraph—

"(A) with each submission by such person that initiates agency consideration of such person for award of a Federal contract, grant, loan, or cooperative agreement, or for grant of a commitment providing for the United States to insure or guarantee a loan;

"(B) upon receipt by such person of a Federal contract, grant, loan, or cooperative agreement or of a commitment providing for the United States to insure or guarantee a loan, unless such person previously filed a declaration with respect to such contract, grant, loan, cooperative agreement or commitment pursuant to clause (A); and

"(C) at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such person in connection with such Federal contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(5) Any person who requests or receives from a person referred to in paragraph (1) of this subsection a subcontract under a Federal contract, a subgrant or contract under a Federal grant, a contract or subcontract to carry out any purpose for which a particular Federal loan is made, or a contract under a Federal cooperative agreement shall be required to file with the person referred to in such paragraph a written declaration referred to in clause (A) of such paragraph.

Records.
Reports.

"(6)(A) The head of each agency shall collect and compile the information contained, pursuant to paragraphs (2)(B) and (3)(B) of this subsection, in the statements filed under this subsection and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained, pursuant to such paragraphs, in the statements received during the six-month period ending on March 31 or September 30, respectively, of that year. The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

Public information.

Defense and national security.
Classified information.

"(B) Notwithstanding subparagraph (A)—

"(i) information referred to in subparagraph (A) that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees;

"(ii) information referred to in subparagraph (A) that is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, is classified in accordance with such order, and is available only by special access shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees; and

"(iii) information reported in accordance with this subparagraph shall not be available for public inspection.

"(7) The Director of the Office of Management and Budget, after consulting with the Secretary of the Senate and the Clerk of the House of Representatives, shall issue guidance for agency implementation of, and compliance with, the requirements of this section.

Law enforcement and crime.

"(C)(1) Any person who makes an expenditure prohibited by subsection (a) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure.

"(2)(A) Any person who fails to file or amend a declaration required to be filed or amended under subsection (b) of this section shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

"(B) A filing of a declaration of a declaration amendment on or after the date on which an administrative action for the imposition of a civil penalty under this subsection is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. For the purposes of this subparagraph, an administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

"(3) Sections 3803 (except for subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812 of this title shall be applied, consistent with the requirements of this section, to the imposition and collection of civil penalties under this subsection.

"(4) An imposition of a civil penalty under this subsection does not prevent the United States from seeking any other remedy that the United States may have for the same conduct that is the basis for the imposition of such civil penalty.

Reports.

"(d)(1) The official of each agency referred to in paragraph (3) of this subsection shall submit to Congress each year an evaluation of the compliance of that agency with, and the effectiveness of, the requirements imposed by this section on the agency, persons requesting or receiving Federal contracts, grants, loans, or cooperative agreements from that agency, and persons requesting or receiving from that agency commitments providing for the United States to insure or guarantee loans. The report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

"(2) The report of an agency under paragraph (1) of this subsection shall include the following:

"(A) All alleged violations of the requirements of subsections (a) and (b) of this section, relating to the agency's Federal actions referred to in such subsections, during the year covered by the report.

"(B) The actions taken by the head of the agency in such year with respect to those alleged violations and any alleged violations of subsections (a) and (b) of this section that occurred before such year, including the amounts of civil penalties imposed by the head of such agency in such year, if any.

"(3) The Inspector General of an agency shall prepare and submit the annual report of the agency required by paragraph (1) of this subsection. In the case of an agency that does not have an inspector general, the agency official comparable to an inspector general shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit such annual report.

"(e)(1)(A) Subsection (a)(1) of this section does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement to the extent that the payment is for agency and legislative liaison activities not directly related to a Federal action referred to in subsection (a)(2) of this section.

"(B) Subsection (a)(1) of this section does not prohibit any reasonable payment to a person in connection with, or any payment of reasonable compensation to an officer or employee of a person requesting or receiving, a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

"(C) Nothing in this paragraph shall be construed as permitting the use of appropirated funds for making any payment prohibited in or pursuant to any other provision of law

"(2) The reporting requirement in subsection (b) of this section shall not apply to any person with respect to—

"(A) payments of reasonable compensation made to regularly employed officers or employees of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan;

"(B) a request for or receipt of a contract (other than a contract referred to in clause (C)), grant, cooperative agreement, subcontract (other than a subcontract referred to in clause (C)), or subgrant that does not exceed $100,000; and

"(C) a request for or receipt of a loan, or a commitment providing for the United States to insure or guarantee a loan, that does not exceed $150,000, including a contract or subcontract to carry out any purpose for which such a loan is made.

"(f) The Secretary of Defense may exempt a Federal action described in subsection (a)(2) from the prohibition in subsection (a)(1) whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such determination.

"(g) The head of each Federal agency shall take such actions as are necessary to ensure that the provisions of this section are vigorously implemented and enforced in such agency.

"(h) As used in this section:

"(1) The term 'recipient', with respect to funds received in connection with a Federal contract, grant, loan, or cooperative agreement—

"(A) includes the contractors, subcontractors, or subgrantees (as the case may be) of the recipient; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures that are by such tribe or organization for purposes specified in subsection (a) and are permitted by other Federal law.

"(2) The term 'agency' has the same meaning provided for such term in section 552(f) of title 5, and includes a Government corporation, as defined in section 9101(1) of this title.

"(3) The term 'person'—

"(A) includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but

"(B) does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.

"(4) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

"(5) The term 'local government' means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, the following entities:

"(A) A local public authority.

"(B) A special district.

"(C) An intrastate district.

"(D) A council of governments.

"(E) A sponsor group representative organization.

"(F) Any other instrumentality of a local government.

"(6)(A) The terms 'Federal contract', 'Federal grant', 'Federal cooperative agreement' mean, respectively—

"(i) a contract awarded by an agency;

"(ii) a grant made by an agency or a direct appropriation made by law to any person; and

"(iii) a cooperative agreement entered into by an agency.

"(B) Such terms do not include—

"(i) direct United States cash assistance to an individual;

"(ii) a loan;

"(iii) loan insurance; or

"(iv) a loan guaranty.

"(7) The term 'Federal loan' means a loan made by an agency Such term does not include loan insurance or a loan guaranty

"(8) The term 'reasonable payment' means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"(9) The term 'reasonable compensation' means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

"(10) The term 'regularly employed', with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commit-

ment providing for the United States to insure or guarantee a loan, means an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guaranty commitment.

"(11) The terms 'Indian tribe' and 'tribal organization' have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).".

(2) The table of sections for subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new item:

"1352. Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.".

Reports.
31 USC 1352 note.

(b) The first report submitted under subsection (b)(6) of section 1352 of title 31, United States Code (as added by subsection (a)), shall be submitted on May 31, 1990, and shall contain a compilation relating to the statements received under subsection (b) of such section during the six-month period beginning on October 1, 1989.

31 USC 1352 note.

(c) The Director of the Office of Management and Budget shall notify the head of each agency that section 1352 of title 31, United States Code (as added by subsection (a)), is to be complied with commencing 60 days after the date of the enactment of this Act. Not later than 60 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue the guidance required by subsection (b)(7) of such section.

Effective date.
31 USC 1352 note.

(d) Section 1352 of title 31, United States Code (as added by subsection (a)), shall take effect with respect to Federal contracts, grants, loans, cooperative agreements, loan insurance commitments, and loan guaranty commitments that are entered into or made more than 60 days after the date of the enactment of this Act.

Approved October 23, 1989.

LEGISLATIVE HISTORY—H.R. 2788:

HOUSE REPORTS: No. 101-120 (Comm. on Appropriations) and No. 101-264 (Comm. of Conference).
SENATE REPORTS: No. 101-85 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 12, considered and passed House.
July 26, considered and passed Senate, amended.
Oct. 3, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 7, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Oct. 23, Presidential statement.

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Public Law 101-122
101st Congress

Joint Resolution

Designating October 27, 1989, as "National Hostage Awareness Day".

Oct. 23, 1989
[H.J. Res. 400]

Whereas 10 innocent citizens of the United States have been held hostage in Lebanon;

Whereas it is reported that 1 of the hostages, Lieutenant Colonel William R. Higgins, taken February 17, 1988, was killed by his captors;

Whereas another hostage, William Buckley, political officer at the United States Embassy in Beirut, seized March 18, 1984, is presumed dead;

Whereas the remaining hostages from the United States are: Terry Anderson, chief Middle East correspondent for the Associated Press, seized March 16, 1985; Thomas P. Sutherland, dean of agriculture, American University of Beirut, taken June 9, 1985; Frank Herbert Reed, headmaster of the Lebanese International School, seized September 9, 1986; Joseph James Cicippio, deputy comptroller of the American University of Beirut, seized September 12, 1986; Edward Austin Tracy, illustrator, seized October 21, 1986; Jessee Jonathan Turner, computer and mathematics professor, Beirut University College, seized January 24, 1987; Alann Bradford Steen, professor of journalism at Beirut University College, seized January 24, 1987; and Robert Bruce Polhill, business professor at Beirut University College, seized January 24, 1987;

Whereas efforts by national and international organizations have failed to end the terrible plight of the hostages in Lebanon;

Whereas the fate of other hostages seized in Lebanon of British, West German, Irish, and Italian nationalities is uncertain; and

Whereas Terry Anderson has been held for the longest period of time of all foreign hostages in Lebanon: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 27, 1989, is designated as "National Hostage Awareness Day" in recognition of the 42d birthday of Terry Anderson, his 5th in captivity;

(2) efforts should be made to have October 27 declared International Hostage Day by the United Nations;

(3) all nations and international agencies should work to secure the prompt, safe, and unconditional release of the hostages by exerting influence, either directly on the hostage-takers, or indirectly on other involved nations;

(4) adherents of all faiths in the United States should pray for the release of all United States and foreign hostages in Lebanon on such day; and

(5) in addition to appropriate observances throughout the day, bells should be rung beginning at noon on October 27, 1989, for one minute to honor the hostages in Lebanon.

Approved October 23, 1989.

LEGISLATIVE HISTORY—H.J. Res. 400:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 28, considered and passed House.
Oct. 5, considered and passed Senate.

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Public Law 101-123
101st Congress

An Act

To amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States.

Oct. 23, 1989
[S. 248]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Major Fraud Act Amendments of 1989.
18 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Major Fraud Act Amendments of 1989".

SEC. 2. REWARD FOR WHISTLEBLOWERS.

(a) AMENDMENT TO TITLE 18.—Section 1031 of title 18, United States Code, is amended by inserting after subsection (f) the following new subsection:

"(g)(1) In special circumstances and in his or her sole discretion, the Attorney General is authorized to make payments from funds appropriated to the Department of Justice to persons who furnish information relating to a possible prosecution under this section. The amount of such payment shall not exceed $250,000. Upon application by the Attorney General, the court may order that the Department shall be reimbursed for a payment from a criminal fine imposed under this section.

"(2) An individual is not eligible for such a payment if—

"(A) that individual is an officer or employee of a government agency who furnishes information or renders service in the performance of official duties;

"(B) that individual failed to furnish the information to the individual's employer prior to furnishing it to law enforcement authorities, unless the court determines the individual has justifiable reasons for that failure;

"(C) the furnished information is based upon public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or GAO report, hearing, audit or investigation, or from the news media unless the person is the original source of the information. For the purposes of this subsection, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government; or

"(D) that individual participated in the violation of this section with respect to which such payment would be made.

"(3) The failure of the Attorney General to authorize a payment shall not be subject to judicial review.".

Contracts.
18 USC 1031 note.

(b) APPLICABILITY.—The amendment made by this section shall apply to contracts entered into on or after the date of the enactment of this Act.

SEC. 3. TECHNICAL AMENDMENT.

18 USC 293 and note. (a) REPEAL.—Section 3 of the Major Fraud Act of 1988 (Public Law 100-700) and the amendment made by such section are repealed.

18 USC 293 note. (b) EFFECTIVE DATE.—The repeal made by this section shall be deemed to be effective on the date of enactment of Public Law 100-700.

Approved October 23, 1989.

LEGISLATIVE HISTORY—S. 248:

HOUSE REPORTS: No. 101-273 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-7 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Apr. 5, considered and passed Senate.
  Oct. 10, considered and passed House.

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Public Law 101-124
101st Congress

Joint Resolution

To designate October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America".

Oct. 24, 1989
[S.J. Res. 213]

Whereas alcohol and other drug abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas alcohol and other drug abuse is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas alcohol and other drug abuse costs American society nearly $100,000,000,000 a year;

Whereas illegal drug use does not discriminate on the basis of age, gender, or socioeconomic status, as evidenced by the facts that—

(1) 23,000,000 Americans age 12 and over currently use illicit drugs;

(2) a nationwide Weekly Reader survey revealed that of the 68,000 fourth graders polled, 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack or cocaine; and

(3) the 15- to 24-year-old group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, many of which are related to drug and alcohol abuse;

Whereas the drug problem appears to be insurmountable, but Americans have begun to lay the foundation to combat it;

Whereas we must continue the important strides we have made in our efforts to prevent alcohol and other drug abuse;

Whereas the most recent national polls reveal that progress has been made in that—

(1) since 1979, there has been a steady decline in the use of marijuana on a daily basis among high school seniors, and in 1987, marijuana use among this group was at its lowest level in 11 years;

(2) in 1987 there was a significant drop in the use of cocaine, and the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 percent in 1986 to 48 percent in 1987; and

(3) illicit drug use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas according to public opinion polls the American people consider that drug abuse is one of the most serious domestic problems facing this Nation and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 22 through October 29, 1989, as "National Red Ribbon Week for a Drug-Free America", and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;

Whereas other outstanding groups, including the National Parents Resource Institute for Drug Education, the Council for Drug Education, Just Say No International, the National Crime Prevention Council, the Chiefs of Police National Drug Task Force, the National Hispanic Family Against Drug Abuse, national youth organizations, national service organizations, and others, have demonstrated leadership, creativity, and determination in achieving a drug-free America;

Whereas any use of an illegal drug is unacceptable, and the illegal use of a legal drug cannot be tolerated; and

Whereas alcohol and other drug abuse destroys lives, spawns rampant crime, undermines our economy, and threatens our national security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 22 through October 29, 1989, is designated as "National Red Ribbon Week for a Drug-Free America". The United States recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement, educators, business leaders, religious leaders, private sector organizations, and Government leaders, and urges that meetings, conferences, and fundraising activities that support community and alcohol education take place during National Red Ribbon Week for a Drug-Free America with other appropriate activities, events, and educational campaigns. Every American is encouraged to wear and display red ribbons during National Red Ribbon Week for a Drug-Free America to present and symbolize their commitment to a healthy, drug-free lifestyle, and to develop an attitude of intolerance concerning the use of drugs.

Approved October 24, 1989.

LEGISLATIVE HISTORY—S.J. Res. 213:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 6, considered and passed Senate.
Oct. 11, considered and passed House.

○

Public Law 101-125
101st Congress

An Act

To name the Department of Veterans Affairs medical center in Leavenworth, Kansas, as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center".

Oct. 24, 1989
[H.R. 2987]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, LEAVENWORTH, KANSAS.

The Department of Veterans Affairs medical center in Leavenworth, Kansas, shall after the date of the enactment of this Act be known and designated as the "Dwight D. Eisenhower Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Dwight D. Eisenhower Department of Veterans Affairs Medical Center.

Approved October 24, 1989.

LEGISLATIVE HISTORY—H.R. 2987:

HOUSE REPORTS: No. 101-259 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 2, considered and passed House.
Oct. 12, considered and passed Senate.

○

PUBLIC LAW 101-126—OCT. 25, 1989

CHILD ABUSE PREVENTION CHALLENGE GRANTS REAUTHORIZATION ACT CF 1989

Public Law 101-126
101st Congress

An Act

Oct. 25, 1989
[H.R. 2087]

To transfer a certain program with respect to child abuse from title IV of Public Law 98-473 to the Child Abuse Prevention and Treatment Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Abuse Prevention Challenge Grants Reauthorization Act of 1989.
42 USC 5101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Prevention Challenge Grants Reauthorization Act of 1989".

SEC. 2. TRANSFER OF CERTAIN PROGRAM TO CHILD ABUSE PREVENTION AND TREATMENT ACT.

42 USC 5116-5116q.

(a) IN GENERAL.—Sections 402 through 409 of title IV of Public Law 98-473 (98 Stat. 2197 et seq.) are—

(1) transferred to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.);

(2) redesignated as sections 201 through 208, respectively; and

(3) in the appropriate sequence, inserted after section 15 of the Child Abuse Prevention and Treatment Act.

42 USC 5116b note.

(b) AVAILABILITY OF APPROPRIATIONS.—With respect to amounts made available in appropriation Acts for carrying out the program transferred by subsection (a) to the Child Abuse Prevention and Treatment Act, the transfer of such program may not be construed to affect the availability of such amounts for carrying out such program.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) IN GENERAL.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by section 2 of this Act, is further amended—

42 USC 5101-5106h.

(1) by redesignating sections 2 through 15 as sections 101 through 114, respectively;

(2) by inserting before section 101 (as so redesignated) the following new heading:

"TITLE I—GENERAL PROGRAM";

and

(3) by inserting before section 201 the following new heading:

"TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS".

(b) CROSS-REFERENCES IN TITLE I.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is further amended—

42 USC 5102.

(1) in section 102—

(A) in subsection (c)(1)(A), by striking "section 4" and inserting "section 103";

(B) in subsection (e), by striking "section 4(f)" and inserting "section 103(f)"; and

(C) in subsection (f)(2)(E), by striking "sections 6 and 7" and inserting "sections 105 and 106";

(2) in section 104(b)— 42 USC 5104.

(A) in paragraph (1), by striking "section 6(b)" and inserting "section 105(b)"; and

(B) in paragraph (2)(B), by striking "section 105(a)(1)" and inserting "section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988";

(3) in section 105— 42 USC 5105.

(A) in subsection (a)(2)(A), by striking "section 7" and inserting "section 106"; and

(B) in subsection (b)(3), by striking "section 5" and "section 10" and inserting "section 104" and "section 109", respectively;

(4) in section 108— 42 USC 5106b.

(A) in subsection (a)(1), by striking "section 8(b)(10)" and inserting "section 107(b)(10)"; and

(B) in subsection (b), by striking "this Act" and inserting "this title";

(5) in section 109(b)(1), by striking "sections 8(b)" and all that follows and inserting the following: "sections 107(b) and 107(e) or receive a waiver under section 107(c);"; 42 USC 5106c.

(6) in section 112(b)— 42 USC 5106f.

(A) in paragraph (1), by striking "section 10" and inserting "section 109"; and

(B) in paragraph (2), by striking "section 9" and inserting "section 108";

(7) in section 113— 42 USC 5106g.

(A) in the matter preceding paragraph (1), by striking "this Act" and inserting "this title";

(B) in paragraph (1), by striking "section 3" and inserting "section 102";

(C) in paragraph (2), by striking "section 2" and inserting "section 101"; and

(D) in paragraph (9), by striking "section 4" and inserting "section 103"; and

(8) in section 114— 42 USC 5106h.

(A) in subsection (a)—

(i) in the first sentence, by striking "this Act" and inserting "this title"; and

(ii) in the second sentence—

(I) by striking "sections 5, 6, and 7" and inserting "sections 104, 105, and 106";

(II) by striking "sections 8(a) and 9 of this Act" and inserting "sections 107(a) and 108";

(III) by striking "section 7(a) of this Act" and inserting "section 106(a)"; and

(IV) by striking "section 8(f) of this Act" and inserting "section 107(f)"; and

(B) in subsection (b), by striking "this Act" and inserting "this title".

(c) CROSS-REFERENCES IN TITLE II.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is further amended—

42 USC 5116 *et seq.* (1) in title II, by striking "sections 402 to 409" each place such term appears and inserting "this title";

42 USC 5116d. (2) in section 205(b)(1)(A)—

(A) by striking "section 2" and all that follows through "Treatment Act" and inserting "section 101"; and

(B) by striking "section 5" and inserting "section 204"; and

42 USC 5116g. (3) in section 208, by striking "section 6(b)(1)(C)" and inserting "section 205(b)(1)(C)".

(d) TABLE OF CONTENTS.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as otherwise amended by this Act, is amended in section 1(b), in the table of contents—

(1) by redesignating the items relating to sections 2 through 15 as items relating to sections 101 through 114, respectively;

(2) by inserting after the item relating to section 1 the following new item relating to title I:

"TITLE I—GENERAL PROGRAM";

and

(3) by adding at the end the following new items:

"TITLE II—GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS

"Sec. 201. Findings and purpose.
"Sec. 202. Definitions.
"Sec. 203. Grants authorized.
"Sec. 204. State eligibility.
"Sec. 205. Limitations.
"Sec. 206. Withholding.
"Sec. 207. Audit.
"Sec. 208. Report.".

SEC. 4. STYLISTIC MODIFICATION OF TRANSFERRED PROGRAM.

(a) SECTION 201.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 201— 42 USC 5116.

(1) by striking all that follows through "The Congress finds that—" in subsection (a) and inserting the following:

"SEC. 201. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—"; and

(2) in subsection (b), by inserting "PURPOSE.—" after the subsection designation.

(b) SECTION 202.—

(1) DEFINITIONS.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 202 by striking the section heading and all that follows through "As used" and inserting the following: 42 USC 5116a.

"SEC. 202. DEFINITIONS.

"As used".

(2) STATE.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 202 by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

(c) SECTION 203.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 203— 42 USC 5116b.

(1) by striking the section heading and all that follows through "The Secretary" in subsection (a) and inserting the following:

"SEC. 203. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary";

(2) in subsection (b), by inserting "PAYMENTS.—" after the subsection designation; and

(3) in subsection (c), by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after the subsection designation.

(d) SECTION 204.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 204 by striking the section heading and all that follows through "Any State" in the matter preceding paragraph (1) and inserting the following: 42 USC 5116c.

"SEC. 204. STATE ELIGIBILITY.

"Any State".

(e) SECTION 205.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 205— 42 USC 5116d.

(1) by striking the section heading and all that follows through "Any grant" in subsection (a)(1) and inserting the following:

"SEC. 205. LIMITATIONS.

"(a) AMOUNT OF GRANT.—

"(1) IN GENERAL.—Any grant";

(2) in subsection (a)—

(A) in paragraph (1), by moving subparagraphs (A) and (B) two ems to the right so that the left margins of such subparagraphs are indented 6 ems; and

(B) in paragraph (2), by striking all that follows through "paragraph (1)" and inserting the following:

"(2) DEFINITION.—For purposes of paragraph (1)(B)"; and

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by striking all that follows through "No grant" in the matter preceding subparagraph (A) and inserting the following:

"(b) APPLICATION.—

"(1) REQUIREMENTS.—No grant"; and

(ii) by moving subparagraphs (A) through (C) two ems to the right so that the left margins of such subparagraphs are indented 6 ems; and

(B) in paragraph (2), by striking all that follows through "The Secretary" and inserting the following:

"(2) APPROVAL.—The Secretary".

42 USC 5116e.

(f) SECTION 206.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 206 by striking the section heading and all that follows through "Whenever the Secretary" and inserting the following:

"SEC. 206. WITHHOLDING.

"Whenever the Secretary".

42 USC 5116f.

(g) SECTION 207.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 207 by striking the section heading and all that follows through "The Comptroller General" and inserting the following:

"SEC. 207. AUDIT.

"The Comptroller General".

42 USC 5116g.

(h) SECTION 208.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 208 by striking the section heading and all that follows through "The Secretary" and inserting the following:

"SEC. 208. REPORT.

"The Secretary".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR TRANSFERRED PROGRAM.

42 USC 5116b.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 203(c) by striking "There is authorized" and all that follows and inserting the following: "For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991, but in no event shall amounts so appropriated exceed $1,000,000 in any fiscal year.".

SEC. 6. AUTHORITY, WITH RESPECT TO TRANSFERRED PROGRAM, OF NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

42 USC 5104.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the preceding provisions of this Act, is amended in section 104(b)—

(1) by striking "and" after the semicolon at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2)(D) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

Contracts.
State and local governments.

"(3) directly or through contract, identify effective programs carried out by the States pursuant to title II and provide technical assistance to the States in the implementation of such programs.".

SEC. 7. STUDY OF TRANSFERRED PROGRAM BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—With respect to the program transferred by section 2(a) to the Child Abuse Prevention and Treatment Act, the Comptroller General of the United States shall conduct a study of the trust funds or other funding mechanisms established by the

States pursuant to the program for the purpose of determining, for each State with such a funding mechanism—

(1) whether the amounts provided by the Federal Government under the program are the only Federal funds received by the State for child abuse prevention activities;

(2) if Federal funds received under the program are not the only Federal funds received by the State for such activities, whether receiving the Federal funds under multiple programs constituted an unnecessary administrative burden for the State, and if so, a description of the nature of the burden;

(3) the extent to which, in the fund, amounts received by the State from the Federal Government under the program, together with State funds contributed pursuant to the program, are commingled with other Federal and State funds, including a specification of the total amount contributed by the State to the fund and the percentage constituted by such amount; and

(4) the amount expended by the State from the fund for each of the activities authorized in the eligibility provisions of the program, the percentage of the fund constituted by each such amount, and the policies underlying the allocation among such activities of amounts in the fund.

(b) REPORT.—The Comptroller General of the United States shall, not later than September 30, 1990, complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 8. EFFECTIVE DATE.

42 USC 5102 note.

This Act and the amendments made by this Act shall take effect October 1, 1989, or upon the date of the enactment of this Act, whichever occurs later.

Approved October 25, 1989.

LEGISLATIVE HISTORY—H.R. 2087 (S. 1455):

HOUSE REPORTS: No. 101-113 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 11, considered and passed House.
Sept. 20, considered and passed Senate, amended, in lieu of S. 1455.
Oct. 11, House concurred in Senate amendment.

○

PUBLIC LAW 101-127—OCT. 25, 1989

CHILDREN WITH DISABILITIES TEMPORARY CARE REAUTHORIZATION ACT OF 1989

39-139 O - 89 (127)

Public Law 101-127
101st Congress

An Act

Oct. 25, 1989
[H.R. 2088]

To revise and extend the programs established in the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Children With Disabilities Temporary Care Reauthorization Act of 1989.
42 USC 5117 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children With Disabilities Temporary Care Reauthorization Act of 1989".

SEC. 2. REFERENCES TO CHILDREN WITH DISABILITIES.

The Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

42 USC 5117a.

(1) in section 203, in the first sentence, by striking "handicapped children" and inserting "children with disabilities"; and

42 USC 5117c.

(2) in section 205—

(A) by striking "working with handicapped" and all that follows through "families" in subsection (a)(2)(C), and inserting the following: "working with children with disabilities, with chronically ill children, and with the families of such children,"; and

(B) by striking "the term" and all that follows through "such term in" in subsection (d)(2), and inserting the following: "the term 'children with disabilities' has the meaning given the term 'handicapped children' in".

SEC. 3. STATE INTERAGENCY COORDINATION.

42 USC 5117c.

(a) IN GENERAL.—Section 205(a)(1) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended—

(1)(A) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(B) in clause (iii) (as so redesignated), by striking "and" after the semicolon at the end;

(C) in clause (iv) (as so redesignated), by striking the period at the end and inserting "; and"; and

(D) by inserting after such clause (iv) the following new clause:

"(v) with respect to State agencies described in subparagraph (B), provide documentation of a commitment by all such agencies to develop a State plan for coordination among the agencies in carrying out programs and activities provided by the State pursuant to a grant under section 203."; and

(2)(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following new subparagraph:

"(B) State agencies referred to in subparagraph (A)(v) are State agencies responsible for providing services to children with disabilities or with chronic or terminal illnesses, or responsible for financing services for such children, or both, including

State agencies responsible for carrying out State programs that—

"(i) receive Federal financial assistance; and

"(ii) relate to social services, maternal and child health, comprehensive health and mental health, medical assistance and infants, or toddlers and families.".

(b) DEFINITION.—Section 205(d) of such Act (42 U.S.C. 5117c(d)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) the term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.".

SEC. 4. REPORTS.

Section 205(c) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended in the second sentence to read as follows: "Such report shall include— 42 USC 5117c.

"(1)(A) information concerning costs, the number of participants, impact on family stability, the incidence of abuse and neglect, the types, amounts, and costs of various services provided, demographic data on recipients of services, and such other information as the Secretary may require; and

"(B) with respect to services provided by the States pursuant to section 203, information concerning the number of families receiving services and documentation of parental satisfaction with the services provided;

"(2) a specification of the amount and source of public funds, and of private funds, expended in the State for temporary child care for children with disabilities or with chronic or terminal illnesses; and

"(3) a State strategy for expanding the availability in the State of temporary child care, and other family support, for families of children with disabilities or with chronic or terminal illnesses, which strategy specifies the manner in which the State intends to expend any Federal financial assistance available to the State for such purpose, including any such assistance provided to the State for programs described in section 205(a)(1)(B).".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 206 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended— 42 USC 5117d.

(1) in the first sentence, by inserting before the period the following: ", and $20,000,000 for each of the fiscal years 1990 and 1991"; and

(2) in the second sentence, by striking "Such sums" and inserting "Amounts appropriated under the preceding sentence".

Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986.
42 USC 5117 note.

SEC. 6. REVISION OF SHORT TITLE.

Section 201 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117) is amended by striking "This title" and all that follows and inserting the following: "This title may be cited as the 'Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986'.".

42 USC 5117a note.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1989, or on the date of the enactment of this Act, whichever occurs later.

Approved October 25, 1989.

LEGISLATIVE HISTORY—H.R. 2088 (S. 1454):

HOUSE REPORTS: No. 101-114 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 11, considered and passed House.
Sept. 26, considered and passed Senate, amended, in lieu of S. 1454.
Oct. 11, House concurred in Senate amendment.

○

Public Law 101-128
101st Congress
Joint Resolution

Designating October 1989 as "Italian-American Heritage and Culture Month".

Oct. 25, 1989
[H.J. Res. 392]

Whereas Italians and Italian-Americans have contributed to the United States in all aspects of life, including art, science, civil service, military service, athletics, and education;

Whereas Italian-Americans make up one of the largest ethnic groups in the United States;

Whereas, in recognition of the accomplishments of Christopher Columbus, recognized as one of the greatest explorers in world history and the first to record the discovery of the Americas, a national observance day was established in October of every year;

Whereas the phrase in the Declaration of Independence, "All men are created equal", was suggested by the Italian patriot and immigrant Philip Mazzei;

Whereas during October 1989 special attention will be directed at local and State programs that promote Italian heritage and culture, with special emphasis on national programs such as the Italian Heritage Center at Catholic University of America; and

Whereas during October 1989 the National Italian American Foundation will host the 14th annual dinner to honor Italians and Italian-Americans making important contributions to the development of the arts, sciences, athletics, and education in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1989 is designated as "Italian-American Heritage and Culture Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved October 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 392:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 3, considered and passed House.
Oct. 5, considered and passed Senate.

○

Public Law 101-129
101st Congress

Joint Resolution

Oct. 25, 1989
[H.J. Res. 401]

To designate the month of October 1989 as "Country Music Month".

Whereas country music derives its roots from the folk songs of our Nation's workers, captures the spirit of our religious hymns, reflects the sorrow and joy of our traditional ballads, and echoes the drive and soulfulness of rhythm and blues;

Whereas country music has played an integral part in our Nation's history, accompanying the growth of the Nation and reflecting the ethnic and cultural diversity of our people;

Whereas country music embodies a spirit of America and the deep and genuine feelings individuals experience throughout their lives;

Whereas the distinctively American refrains of country music have been performed for audiences throughout the world, striking a chord deep within the hearts and souls of its fans; and

Whereas October 1989 marks the 25th annual observance of Country Music Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1989 is designated as "Country Music Month" and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 25, 1989.

LEGISLATIVE HISTORY—H.J. Res. 401:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 3, considered and passed House.
Oct. 6, considered and passed Senate.

○

Public Law 101-130
101st Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1990, and for other purposes.

Oct. 26, 1989
[H.J. Res. 423]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of September 29, 1989 (Public Law 101-100), is hereby amended by striking out "October 25, 1989" and inserting in lieu thereof "November 15, 1989" in section 102(c), and by adding the following new sections:

Ante, p. 638.

Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National Significance.

"SEC. 108. (a) For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), an additional $1,100,000,000 for fiscal year 1990 to meet the present emergency, to remain available until expended.

"(b) For an additional amount to meet the present emergency to the Emergency Fund authorized by 23 U.S.C. 125, $1,000,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That the provisions of 23 U.S.C. 125(b)(1) shall not apply to amounts available in this Fund.

"(c) For additional capital for the 'Disaster loan fund', authorized by the Small Business Act, as amended, $500,000,000, to remain available without fiscal year limitation to meet the present emergency of which not to exceed $30,000,000 may be transferred to the 'Salaries and expenses' account of the Small Business Administration for disaster loan servicing and disaster loan making activities: *Provided,* That during fiscal year 1990, and within the resources available to carry out section 7(b) of the Small Business Act, as amended, gross obligations for new direct loans shall not exceed $1,813,250,000.

"(d) For an additional amount necessary to enable the President to meet unanticipated needs to meet the present emergency arising from the consequences of the recent natural disasters, there is appropriated $250,000,000, to remain available until expended: *Provided,* That these funds may be transferred to any authorized Federal governmental activity to meet the requirements of the natural disasters: *Provided further,* That of the sums appropriated, $20,000,000 shall be available for activities under the National Earthquake Hazards Reduction Program, including $8,000,000 to the United States Geological Survey for earthquake investigations and $12,000,000 to the Program's four principal agencies for additional efforts to improve earthquake preparedness throughout the United States.

"(e) Such other amounts will be made available subsequently as required.

"This section may be cited as the fiscal year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National Significance.

"SEC. 109. Section 102(c) shall not apply to sections 107, 108, 109, 110, 111, 112, and 113.

"SEC. 110. Notwithstanding section 120(f) of title 23, United States Code, the Federal share payable on account of any project on the Interstate and other Federal-aid highway system resulting from Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989, with funds made available to carry out section 125 of such title shall be 100 percent for costs incurred in the 180-day period beginning on the date of such natural disaster.

California.

"SEC. 111. Notwithstanding section 301 of title 23, United States Code, projects on the San Francisco-Oakland Bay Bridge in the State of California resulting from the Loma Prieta Earthquake of October 17, 1989, shall be eligible for funds authorized to carry out section 125 of such title: *Provided*, That insurance payments shall be deducted from construction costs.

Insurance.

"SEC. 112. Notwithstanding section 157(a)(3) of title 23, United States Code, allocations for emergency relief in accordance with section 125 of such title with respect to projects resulting from Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989, shall be excluded from making the determination of amounts to be allocated among the States pursuant to such section 157(a)(3).

"SEC. 113. The $100,000,000 limitation contained in section 125(a) of title 23, United States Code, on amounts authorized to be expended in any one fiscal year to carry out the provisions of section 125 of such title shall not apply with respect to expenditures for repairs and reconstruction of highways which have been damaged as a result of Hurricane Hugo, September 1989, or the Loma Prieta Earthquake of October 17, 1989.".

Approved October 26, 1989.

LEGISLATIVE HISTORY—H.J. Res. 423:

HOUSE REPORTS: No. 101-301 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
    Oct. 24, considered and passed House.
    Oct. 25, considered and passed Senate, amended. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
    Oct. 26, Presidential remarks and statement.

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Public Law 101-131
101st Congress

An Act

To amend section 700 of title 18, United States Code, to protect the physical integrity of the flag.

Oct. 28, 1989
[H.R. 2978]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Flag Protection Act of 1989.
18 USC 700 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection Act of 1989".

SEC. 2. CRIMINAL PENALTIES WITH RESPECT TO THE PHYSICAL INTEGRITY OF THE UNITED STATES FLAG.

(a) In General.—Subsection (a) of section 700 of title 18, United States Code, is amended to read as follows:

"(a)(1) Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined under this title or imprisoned for not more than one year, or both.

"(2) This subsection does not prohibit any conduct consisting of the disposal of a flag when it has become worn or soiled.".

(b) Definition.—Section 700(b) of title 18, United States Code, is amended to read as follows:

"(b) As used in this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.".

SEC. 3. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

Section 700 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court ruling upon the constitutionality of subsection (a).

"(2) The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible.".

[Note by the Office of the Federal Register: The foregoing Act, having been presented to the President of the United States on Monday, October 16, 1989, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become law without his signature on October 28, 1989.]

LEGISLATIVE HISTORY—H.R. 2978 (S. 607) (S. 1338):

HOUSE REPORTS: No. 101-231 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-152 accompanying S. 1338 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 135 (1989):
 Mar. 16, S. 607 considered and passed Senate.
 Sept. 12, H.R. 2978 considered and passed House.
 Oct. 4, 5, considered and passed Senate, amended.
 Oct. 12, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
 Oct. 26, Presidential statement.

Public Law 101-132
101st Congress

An Act

Oct. 30, 1989
[H.R. 801]

To designate the United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia, as the "Elbert P. Tuttle United States Court of Appeals Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Court of Appeals Building at 56 Forsyth Street in Atlanta, Georgia, shall be known and designated as the "Elbert P. Tuttle United States Court of Appeals Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Elbert P. Tuttle United States Court of Appeals Building".

Approved October 30, 1989.

LEGISLATIVE HISTORY—H.R. 801:

HOUSE REPORTS: No. 101-102 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 28, considered and passed House.
Oct. 17, considered and passed Senate.

Public Law 101-133
101st Congress

Joint Resolution

Designating October 18, 1989, as "Patient Account Management Day".

Oct. 30, 1989
[H.J. Res. 380]

Whereas the American Guild of Patient Account Management represents 4,500 members in 44 chapters across the Nation;

Whereas patient account management personnel directly influence the health care delivery system of the United States by efficiently managing the administrative needs of health care providers;

Whereas hospitals and physicians depend on the expertise of patient account management personnel to monitor effective and positive cash flow;

Whereas patient account management personnel provide patients with important and relevant information, guidance, and assistance to understand and manage medical bills, the complex systems of Medicare, Medicaid, insurance coverage, and health care reimbursement; and

Whereas patient account management personnel are part of the financial backbone of the health care system in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 18, 1989, is designated as "Patient Account Management Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 30, 1989.

LEGISLATIVE HISTORY—H.J. Res. 380:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 16, considered and passed House.
Oct. 18, considered and passed Senate.

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Public Law 101-134
101st Congress

An Act

Oct. 30, 1989
[S. 1792]

To amend the Disaster Assistance Act of 1989 to avoid penalizing producers who planted a replacement crop on disaster-affected acreage, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPLANTED ACREAGE.

Section 110 of the Disaster Assistance Act of 1989 (Public Law 101-82; 7 U.S.C. 1421 note) is amended to read as follows:

"SEC. 110. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

"(a) REDUCTION OF DISASTER PAYMENTS.—Effective only for producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary of Agriculture shall reduce such payments by an amount that reflects the net value (as determined under subsection (c)) of any crop such producers plant for harvest in 1989 to replace the crop for which disaster payments are received.

"(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1988 or 1989) the second crop is planted on acreage on which the producers planted, or were prevented from planting, the first crop.

"(c) ADMINISTRATION.—

"(1) DETERMINATION OF VALUE.—In carrying out this section, the Secretary shall—

"(A) only consider any production of the second crop that is in excess of 50 percent of the county average yield for such crop;

"(B) base the value of the excess second crop production on average market prices for the second crop during a representative period; and

"(C) reduce the value of such excess second crop production by 25 percent.

"(2) HISTORICAL CROPPING PATTERNS.—In carrying out this section, the Secretary shall take into account the historical cropping patterns of producers.

"(3) REDUCTION ONLY APPLICABLE TO REPLANTED ACREAGE.—The reduction provided for in this subsection shall only be applied against payments due with respect to acreage that was replanted.

"(4) FUTURE CROPPING PRACTICES.—In carrying out this section, the Secretary may make adjustments to the crop acreage bases to reflect crop rotation practices because of the occurrence of a natural disaster or other similar condition beyond the control of the producer in determining a fair and equitable crop acreage base.".

SEC. 2. MARKETING QUOTAS.

(a) **Farm Poundage Quotas.**—

(1) **In general.**—Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended—

(A) in subsection (d)—

(i) by striking "October 1, 1982" and inserting "for the previous marketing year"; and

(ii) by striking "1978 crop year" and inserting "immediately preceding 5 crop years"; and

(B) in the second sentence of subsection (e), by striking "marketing year beginning October 1, 1982" each place it appears and inserting "previous marketing year".

(2) **Acreage—poundage quotas.**—Section 317(a)(6)(B) of such Act (7 U.S.C. 1314c(a)(6)(B)) is amended by striking "years 1960 to 1964, inclusive, may be used, as determined by the Secretary" and inserting "immediately preceding 5 crop years shall be used by the Secretary".

(b) **Lease or Sale of Acreage Allotments.**—Section 316(c) of such Act (7 U.S.C. 1314b(c)) is amended by striking all after the first sentence and inserting "The transfer shall be approved acre for acre.".

SEC. 3. COST REDUCTION OPTIONS.

Section 1009(d) of the Food Security Act of 1985 (7 U.S.C. 1308a(d)) is amended—

(1) by inserting after "nonrecourse loan program" the following "(including the program authorized by section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e))";

(2) by striking "savings" and inserting "benefits"; and

(3) by striking "forfeited commodity," and all that follows through the period at the end of the sentence and inserting "forfeited commodity.".

Approved October 30, 1989.

LEGISLATIVE HISTORY—S. 1792:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 25, considered and passed Senate.
Oct. 26, considered and passed House, amended. Senate concurred in House amendment.

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Public Law 101-135
101st Congress

Joint Resolution

Oct. 30, 1989
[S.J. Res. 177]

To designate October 29, 1989, as "Fire Safety At Home—Change Your Clock, Change Your Battery Day".

Whereas every year, 500,000 fires ravage the homes of Americans, resulting in over 6,000 deaths and 300,000 injuries;

Whereas home fires are the leading cause of accidental death and serious injury among children in the United States;

Whereas senior citizens, families in substandard housing, and the physically and mentally disabled are at high risk of becoming victims of fire;

Whereas 3 out of 4 homes have at least 1 smoke detector, but an estimated one-half are inoperable because of worn or missing batteries;

Whereas the International Association of Fire Chiefs estimates that the annual practice of changing batteries in smoke detectors would save thousands of lives and billions of dollars in property damage;

Whereas the Congressional Fire Services Caucus, with its broad-based bipartisan membership, reflects the concern of Congress for fire safety and its dedication to making it an important national priority;

Whereas the designation of a special day to remind Americans to properly maintain their smoke detectors, timed to coincide with the autumnal return to Standard Time, would greatly diminish this human tragedy; and

Whereas October 29, 1989, is the day Americans in jurisdictions on Daylight Savings Time return their clocks to Standard Time: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1989, is designated as "Fire Safety at Home—Change Your Clock, and Change Your Battery Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe that day by maintaining their homes' first line of defense against fire by changing the batteries in their smoke detectors when they reset their clocks to Standard Time.

Approved October 30, 1989.

LEGISLATIVE HISTORY—S.J. Res. 177:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 20, considered and passed Senate.
Oct. 24, considered and passed House.

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Public Law 101-136
101st Congress

An Act

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 3, 1989
[H.R. 2989]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1990, and for other purposes, namely:

Treasury, Postal Service and General Government Appropriations Act, 1990.

TITLE I

DEPARTMENT OF THE TREASURY

Treasury Department Appropriations Act, 1990.

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not less than $2,000,000 and forty full-time permanent positions for the Office of Foreign Assets Control; not to exceed $1,649,000, to remain available until expended, for systems modernization requirements; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $58,081,000.

International Affairs

For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $25,010,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $13,605,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

Gifts and property.

Decorations, medals, awards.
Gifts and property.
42 USC 3771 note.

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed thirty for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized to accept gifts: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Director of the Federal Law Enforcement Training Center shall annually present an award to be accompanied by a gift of intrinsic value to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, to be funded by donations received through the Center's gift authority: *Provided further,* That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1990; $36,000,000: *Provided further,* That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $15,000,000, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $289,695,000, of which not to exceed $14,864,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $257,565,000, of which $19,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1990, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further,* That funds made available under this Act shall be used to achieve a minimum level of 3,850 full-time equivalent positions for fiscal year 1990, of which no fewer than 692 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to one thousand motor vehicles for replacement only, including nine hundred and ninety for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,059,634,000, of which up to $7,000,000 shall be available for the Interagency Border Inspection System, and of which such sums as become available in the Customs User Fee Account, except sums subject to section

13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000, to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 16,976 full-time equivalent positions in fiscal year 1990, of which a minimum level of 10,385 full-time equivalent positions shall be allocated to commercial operations activities, and of which a minimum level of 930 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1990: *Provided further,* That not less than $500,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $196,728,000, to remain available until expended: *Provided,* That no aircraft or other related equipment shall be transferred to any Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1990.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 100-690; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $2,175,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the

Treasury pursuant to section 236 of Public Law 98-573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

UNITED STATES MINT

Salaries and Expenses

For necessary expenses of the United States Mint; $50,735,000, including amounts for purchase and maintenance of uniforms not to exceed $275 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties.

BUREAU OF THE PUBLIC DEBT

Administering the Public Debt

For necessary expenses connected with any public-debt issues of the United States; $207,906,000.

INTERNAL REVENUE SERVICE

Salaries and Expenses

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $72,382,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended for research, and of which $128,000 shall remain available until expended for tax systems modernization initiatives.

Processing Tax Returns

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,946,003,000 of which $156,419,000 shall remain available until expended for tax systems redesign initiatives and of which not to exceed $60,000,000 shall remain available until expended for systems modernization initiatives.

Examination and Appeals

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,911,301,000, of which $1,674,000 shall remain available until expended for tax systems modernization initiatives.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That notwithstanding any other provision of the Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further,* That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $3,000,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $3,000,000 can be devoted to program requirements; $1,620,252,000, of which $1,431,000 shall remain available until expended for tax systems modernization initiatives; and of which an additional $7,400,000 shall be available for criminal investigations activities: *Provided,* That an additional $7,400,000 may be made available within existing funds for criminal investigations..

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $370,785,000, of which $2,100,000 shall remain available until expended for construction at the Vice President's Temporary Official Residence, and of which not to exceed $160,000 shall be made available for the protection at the one non-governmental property designated by the President of the United States under provisions of section 12 of the Presidental Protection Assistance Act of 1976 (18 U.S.C. 3056 note).

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

31 USC 306 note.

SEC. 104. Notwithstanding any other provision of law, beginning October 1, 1990, and thereafter, the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in the issuance of Social Security Trust Funds benefit payments, including all physical costs associated with payment preparation and postage costs. Such direct reimbursement shall also be made for all other trust and special funds which are the recipients of services performed by the Financial Management Service and which prior to enactment of this provision reimburse the General Fund of the Treasury for such services.

SEC. 105. Not more than $22,640,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1990"

Postal Service Appropriations Act, 1990.

TITLE II

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $459,755,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1990.

39 USC 403 note.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $36,942,000.

UNITED STATES POSTAL SERVICE

GENERAL PROVISIONS

New York.

Reports.

SECTION 1. That none of the funds in this Act or made available by 39 U.S.C. 2401(a) may be used to enter into any new contracts relating to the Westchester County, New York, General Mail Facility or construction thereof for a period of ninety days. During this ninety-day period, the Postal Service shall pursue alternative site locations for the Westchester GMF and at the end of that period shall report back to the Appropriations Committee with recommended alternatives.

This title may be cited as the "Postal Service Appropriations Act, 1990".

Executive Office Appropriations Act, 1990.

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further*, That

3 USC 102 note.

none of the funds made available for official expenses shall be considered as taxable to the President.

OFFICE OF ADMINISTRATION

Salaries and Expenses

For necessary expenses of the Office of Administration; $18,825,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles and of which not less than $500,000 shall be made available to the White House Conference on Indian Education.

THE WHITE HOUSE OFFICE

Salaries and Expenses

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $30,639,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $6,898,000, of which $800,000 for the replacement of exterior windows of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114 and of which $125,000 shall remain available until expended for refurbishment of furniture.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $578,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

Salaries and Expenses

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,335,000.

COUNCIL OF ECONOMIC ADVISERS

Salaries and Expenses

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,906,000.

OFFICE OF POLICY DEVELOPMENT

Salaries and Expenses

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,079,000.

NATIONAL CRITICAL MATERIALS COUNCIL

Salaries and Expenses

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $400,000: *Provided,* That a minimum level of 5 permanent full-time equivalent positions shall be hired and maintained by the National Critical Materials Council in fiscal year 1990: *Provided further,* That none of the funds made available to the Council under this Act shall be used to pay other Federal agencies for reimbursable detailees in fiscal year 1990 without the advance approval of the House and Senate Committees on Appropriations.

NATIONAL SECURITY COUNCIL

Salaries and Expenses

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,409,000.

OFFICE OF MANAGEMENT AND BUDGET

Salaries and Expenses

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $44,894,000 of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 105, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

Investment in Management Improvement

For expenses necessary to improve the management and productivity of Executive agencies, such as the development of systems to integrate budget, accounting, administrative, and program management information, and pilot projects to use credit card technology to disburse benefit payments, $500,000, to remain available until expended.

OFFICE OF FEDERAL PROCUREMENT POLICY

Salaries and Expenses

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,660,000.

OFFICE OF NATIONAL DRUG CONTROL POLICY

Salaries and Expenses

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100-690; not to exceed $7,500 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $12,000,000: *Provided,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

Gifts and property.

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1990".

Independent Agencies Appropriations Act, 1990.

TITLE IV

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Salaries and Expenses

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $1,865,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Salaries and Expenses

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); $1,300,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

Salaries and Expenses

Reports.

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $205,000: *Provided,* That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Salaries and Expenses

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, $1,062,000.

FEDERAL ELECTION COMMISSION

Salaries and Expenses

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $15,330,000.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For additional expenses necessary to carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $25,220,000 to be deposited into said fund. The revenues and collections deposited into said fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Governmental agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $3,328,345,320, of which (1) not to exceed $138,843,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:
  Alaska:
    Skagway, Border Station, $4,110,000
  Iowa:
    Ames, a grant to establish a midwest Supercomputer Access Center at Iowa State University, $5,000,000
  California:
    Long Beach, Grant to County of Los Angeles, additional deck to a parking facility, $3,000,000
  Colorado:
    Boulder, NOAA, $31,814,000
  Kansas:
    Kansas City, Federal Building, Courthouse, Site, $200,000
  Maryland:
    Prince George's County Federal Courthouse, Site and Design, $4,700,000
  Massachusetts:
    Boston, Federal Building, Claim, $2,930,000
    Woods Hole, a grant for the development of the Marine Biomedical Institute for Advanced Studies, $2,000,000
    Northampton, a grant for a science center at Smith College, $1,500,000
  Maryland:

Baltimore, a grant for planning and design of the Christopher Columbus Center on Marine Research and Exploration, $1,500,000

Minnesota:

International Falls, Border Station, $1,472,000

New Jersey:

Paterson, Federal Building, $1,200,000

Nebraska:

Lincoln, a grant for expansion of the Eppley Institute for Research in Cancer and Allied Diseases, $5,000,000

New Mexico:

Alamogordo, Grant to the New Mexico State University, Primate Research Institute, Site and Facilities, to be constructed on a site leased from the United States Air Force at Holloman Air Force Base, $5,000,000

North Carolina:

Asheville, Federal Building, site and design, $4,000,000

Oregon:

Astoria, Grant to the City of Astoria for reconstruction (including parking/roadwork) of the first United States Custom House west of the Rockies, $90,000

Pennsylvania:

Philadelphia, Veterans Administration, $54,000,000

Virgin Islands:

St. Croix, Federal Building, Courthouse, $8,827,000

Construction Projects, less than $1,500,000, $2,000,000

Other selected purchases including options to purchase, $500,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1991, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $558,692,320 which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

Alabama:

Mobile, Federal Building, $1,581,000

Alaska:

Juneau, Federal Building, Courthouse, Post Office, $12,258,000

California:

Los Angeles, Federal Building, Post Office, 11000 Wilshire Blvd., $7,700,000

Los Angeles, Courthouse, 312 Spring Street, $5,302,000
San Francisco, Federal Building, Courthouse, 450 Golden Gate Avenue, $55,851,000

Colorado:
Denver, Byron G. Rogers Federal Building, Courthouse, $8,614,000
Lakewood, Denver Federal Center, Building 810, $7,841,000

District of Columbia:
General Services Administration Headquarters, $19,000,000
J. Edgar Hoover Federal Building, $9,800,000
Housing and Urban Development, $9,500,000
Old Executive Office Building, $18,000,000

Florida:
St. Petersburg, Federal Building, $3,637,000

Georgia:
Macon, Federal Building, Courthouse, $1,765,000

Illinois:
Chicago, Customhouse, $9,596,000
Chicago, Everett M. Dirksen Federal Building, Courthouse, $2,833,000
Chicago, Federal Building, 536 S. Clark Street, $35,328,000
Danville, Federal Building, Courthouse, $2,627,000

Massachusetts:
Boston, John F. Kennedy Federal Building, $9,700,000

Michigan:
Detroit, Federal Building, Courthouse, $2,580,000

Minnesota:
Fort Snelling, Bishop Henry Whipple Federal Building, $4,728,000

Missouri:
Overland, Adjutant General Personnel Center, $1,940,000
Overland, Federal Records Center, $7,691,000

New Mexico:
Sante Fe, Federal Building, Cathedral Place at Palace, $2,130,000

New York:
Brooklyn, Emanuel Celler Federal Building, Cadman Plaza, $5,100,000

Pennsylvania:
Philadelphia, James A. Byrne Courthouse, $7,801,000
Philadelphia, William J. Greene, Jr., Federal Building, $6,774,000
Philadelphia, Robert N.C. Nix, Sr., Federal Building, $19,268,000
Pittsburgh, William S. Moorhead Federal Building, $7,850,000

Tennessee:
Chattanooga, Joel W. Solomon Federal Building, Courthouse, $3,033,000
Jackson, Post Office, Courthouse, $2,433,000

Texas:
Fort Worth, Fritz G. Lanham Federal Building, $4,834,000

Virginia:

Charlottesville, Federal Executive Institute, $2,100,000
Wisconsin:
Milwaukee, Federal Building, Courthouse, $3,548,000

Capital Improvements of United States-Mexico Border Facilities, $54,681,320 as follows:

Arizona:
Douglas, New Border Station, $4,000,000
Nogales, Mariposa Border Station, $4,289,000
Nogales, Grand Ave./Morley Gate Border Station, $12,427,000
California:
Calexico, Border Station, $4,000,320
Otay Mesa, Border Station, $4,302,000
Otay Mesa, New facility, $2,000,000
San Ysidro, Border Station, $3,366,000
New Mexico:
Santa Teresa, New Border Station, $6,152,000
Texas:
Brownsville, Los Indios Border Station, $1,535,000
Columbia, New Border Station, $4,000,000
Eagle Pass, Border Station, $1,402,000
El Paso, Bridge of the Americas, Border Station, $7,208,000.

Minor Repairs and Alterations, $201,268,000: *Provided,* That by no later than July 30, 1990, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to exceed $10,000,000, to provide additional funding for United States-Mexico Border Facility projects: *Provided further,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1991, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $126,752,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,341,736,000 for rental of space; (5) not to exceed $948,000,000 for real property operations; (6) not to exceed $68,020,000 for program direction and centralized services; and (7) not to exceed $146,302,000 for design and construction services which shall remain available until expended: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That the Administrator of General Services is hereby directed to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of a building of approximately 541,000 occupiable square feet, in Chamblee, Georgia. The contract shall provide, by lease or installment payments over a period of not to exceed thirty years, for the payment of the purchase

Contracts.
Georgia.

price and reasonable interest thereon, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligations of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code: *Provided further,* That, notwithstanding any other provision of law, the Administrator of General Services is hereby authorized to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of such buildings as required to provide not to exceed 1,400,000 occupiable square feet and necessary parking for the Environmental Protection Agency, on a site in the District of Columbia. The contract shall provide, by lease or installment payment over a period not to exceed thirty years, from funds available in the Federal Buildings Fund for the payment of the purchase price and reasonable interest thereon, and shall provide for title to the building(s) to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligation of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code: *Provided further,* That the Administrator of General Services is hereby directed to enter into a lease to ownership agreement, pursuant to a competitive selection process, for the lease purchase of a building of approximately 664,100 occupiable square feet, on a site to be donated or otherwise acquired, in the City of Baltimore, Maryland, or the City of Woodlawn, Maryland. The contract shall provide, by lease or installment payments over a period of not to exceed thirty years, for the payment of the purchase price and reasonable interest thereon, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement. Obligations of funds for the lease or installment payments shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code: *Provided further,* That the limitation on purchase price for the Oakland, California building authorized under this heading in Public Law 100-202 may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for the Prince George's County, Maryland, Federal Courthouse; Capital Improvements for United States-Mexico Border Facilities; and the Santa Fe New Mexico Federal Building shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services

Contracts.
District of Columbia.

Contracts.
Maryland.

Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this Fund during fiscal year 1990 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $3,328,345,320 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

FEDERAL SUPPLY SERVICE

Operating Expenses

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $47,644,000.

FEDERAL PROPERTY RESOURCES SERVICE

Operating Expenses

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property, including services as authorized by 5 U.S.C. 3109; $12,174,000, to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, $8,000,000 to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided,* That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further,* That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $124,297,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided,* That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further,* That for the fiscal year ending September 30, 1990, in addition to funds previously appropriated to General Management and Administration, there is hereby appropriated $13,152,000 to remain available until expended, to be allocated as grants for the following projects:

(a) Rochester Institute of Technology, Rochester, New York, to establish a strategic materials research center, $1,500,000;

(b) Michigan Technological University, Houghton, Michigan, for construction of a center for applied metallurgical, minerals, and materials research, $5,000,000;

(c) University of Maryland, College Park, Maryland, to establish a center for strategic man-made materials, $1,500,000;

(d) University of Hawaii, Manoa, Hawaii, for a strategic materials research facility, $1,000,000; and

(e) University of Texas, El Paso, Texas, for a grant to study and facilitate the development and transfer and installation of strategic materials technologies among American industries, $4,152,000.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $32,480,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $26,500,000 of which $1,000,000 is available until expended for procurement and installment of an automation program in support of audits and investigations: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,823,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

Public buildings and grounds.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1990 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

40 USC 490d.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

Maryland.

SEC. 6. Notwithstanding any provisions of this Act or any other Act in any fiscal year, the Administrator of General Services is authorized and directed to charge the Department of the Interior for design and alterations to the Avondale, Maryland, property at rates so as to recover the approximate applicable cost incurred by General Services Administration in providing such alterations, and the Department of the Interior is authorized to repay such charges out of any appropriation available to the department and the payments shall be deposited in the fund established by 40 U.S.C. 490(f).

40 USC 490a-1.

SEC. 7. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of General Services Administration borrowings from the Federal Financing Bank when such borrowings are legal obligations of the Fund.

Safety.
New York.

SEC. 8. The General Services Administration shall take immediate action to secure corrections to health and safety problems at the IRS Manhattan District Office and is directed if unable to correct such problems through the lessor within 90 days, to take such actions necessary to accomplish the corrections and withhold such amounts expended on such corrections from rental payments.

40 USC 491 note.

SEC. 9. OBLIGATIONS FOR MULTIYEAR AGREEMENTS FOR LEASE OR OTHER ACQUISITION OF MOTOR VEHICLES ENTERED INTO BY ADMINISTRATOR OF GENERAL SERVICES.—(a) IN GENERAL.—Subject to subsection (b), obligations of funds for multiyear agreements for the lease or other acquisition of motor vehicles entered into by the Administrator of General Services for the purposes of section 211 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 491) shall be limited to the current fiscal year for which payments are due, without regard to any termination or cancellation costs, and without regard to section 1341(a)(1)(B) of title 31, United States Code.

(b) AFFECTED AGREEMENTS.—This section shall apply to multiyear agreements which—

(1) are entered into by the Administrator during the 4-year period beginning on the date of the enactment of this Act; and

(2) provide for the lease of motor vehicles for a period of not more than four years.

102 Stat. 1741.

SEC. 10. The general provision (section 8) in Public Law 100-440 is amended as follows: In subsection (b)(1) delete "600,000" and insert "900,000". Delete subsection (b)(2).

Contracts.
Massachusetts.

SEC. 11. (a) Notwithstanding any other provisions of law, the Administrator of General Services, with the concurrence of the Director of the U.S. Fish and Wildlife Service, is authorized and directed to acquire, by means of a lease of up to twenty years duration, a new facility to house the offices of Region Five of the U.S. Fish and Wildlife Service in Hampshire County or Holyoke, Massachusetts.

(b) There is hereby made available until expended, out of the Federal Buildings Fund, not to exceed $100,000 for telecommunication system expenses associated with the relocation of Region Five of the U.S. Fish and Wildlife Service to the facility authorized to be leased by this Act.

Contracts.
Massachusetts.

SEC. 12. The Administrator of GSA is directed to lease approximately one hundred thousand occupiable square feet of office and special purpose space to provide for relocation and consolidation of the outpatient clinic functions in Boston, Massachusetts, currently located in an outdated Federal building at 17 Court Street.

Colorado.

Sec. 13. Notwithstanding any other provision of law, the Secretary of Commerce shall transfer to the General Services Administration at no cost approximately fifteen acres of the site at 325 Broadway in Boulder, Colorado, for the construction of a new Federal Building to house the National Oceanic and Atmospheric Administration. In selecting the land to be transferred, the Secretary shall give due consideration to access from Broadway and the availability of utilities.

Sec. 14. The Administrator of General Services after consultation with the Internal Revenue Service, Department of the Treasury and the Department of Defense shall submit a prospectus for the Internal Revenue Service and a prospectus for the Department of the Navy to the House Committee on Public Works, the Senate Committee on Environment and Public Works, and the House and Senate Committees on Appropriations within 90 days of enactment of this Act.

One prospectus shall provide for the consolidation of existing leased space for activities of the National Office of the Internal Revenue Service and additional space which may be required by such activities in the National Capital Region, into one consolidated suburban Maryland location in the National Capital Region.

A second prospectus shall provide for the consolidation of existing leased space in northern Virginia and additional space required by the Department of the Navy in the northern Virginia area into one consolidated location in the northern Virginia area.

The prospectuses shall outline how such space shall operate in a coordinated fashion with existing Government controlled space that will continue to be occupied by such agency or department and shall provide that the Administrator of General Services shall competitively acquire and select quality space representing the best value for the Government at the lowest possible cost within each respective area.

North Carolina.

Sec. 15. Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell to the city of Asheville or political subdivision at fair market value, the Grove Arcade Federal Building and site, in whole or in part, in Asheville, North Carolina, and to deposit such proceeds into the Federal Buildings Fund.

California.

Sec. 16. Notwithstanding any other provision of law, the County of Los Angeles in the State of California shall provide to the General Services Administration, without cost, 250 parking spaces for a period of ninety-nine years, in the Parking Facility at Long Beach, California, for which a Grant is provided from revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

Hawaii.
Gifts and property.

Sec. 17. (a) Conveyance.—Subject to subsection (c), notwithstanding any other provision of law, the Administrator of General Services (Administrator) shall convey, subject to existing easements, without consideration, to the State of Hawaii, all right, title and interest of the United States in and to approximately 89.274 acres more specifically described in subsection (b), together with any improvements, structures and fixtures located thereon and related personal property in Waianae, Oahu, State of Hawaii at the former U.S. Coast Guard transmitter site.

(b) Legal Description.—This land is a portion of Grant 4751 to H.M. Von Holt and a portion of Lot A-4-A of Land Court Application 130 situated about 2,000 feet Northeasterly from Farrington Highway at Lualualei, Waianae, Oahu, State of Hawaii; beginning at the Northwest corner of this piece of land and on the easterly boundary of Grant 7859 to Ralph E. Turner, the true azimuth and distance from Government Survey Triangulation Station "Puu-O-Hulu (Makai)" being 167°33′ 5556.27 feet and running by true azimuths measured clockwise from South: (1) 261°44′ 1940.00 feet along 50′ road easement; (2) 360°00′ 2551.34 feet; (3) 89°06′ 1413.41 feet; (4) 167°33′ 2349.87 feet along Grant 8422 to Lizzie Gilliland and Grant 7859 to Ralph E. Turner to the point of beginning; total acreage 93.575.

Excluding from said 93.575 acre parcel, parcel A of Waianaenui Watershed Project, Maili Channel Improvement, lines M-5 and M-6, Being Lot 202-A, area 1.440 acres, as shown on Map 53, and filed in the Office of the Assistant Registrar of the Land Court of State of Hawaii with Land Court Application No. 130 of Alexander C. Dowsett et al., and being a portion of the land described in Transfer Certificate of Title No. 86,019 issued to said grantor, situated at Lualualei, Waianae, Oahu, Hawaii, and also excluding therefrom, Parcel "B" of Waianaenui Watershed Project, Maili Channel Improvement, lines M-5 and M-6: All of that certain parcel of land being a portion of Grant 4751 to H.M. Von Holt (Portion of U.S. Civil No. 868), situated at Lualualei, Waianae, Oahu, Hawaii, approximately 2.861 acres.

(c) CONDITIONS OF CONVEYANCES.—(1) The Administrator shall convey the approximately 89.274 acres described in subsection (b) to the State of Hawaii on the condition that the State of Hawaii, within 3 years of date of conveyance, exchange such property and other appropriate consideration (if necessary) for an equal total amount of consideration that includes one or more parcels of Hawaiian home lands on the islands of Hawaii, Oahu, and Molokai consisting of: (1) approximately 6.00 acres of real property located in Keaukaha (Tract 1), Waiakea, Hilo, Hawaii, being the present site of Keaukaha School; (2) approximately 26.207 acres of real property filed in the Office of the Department of Land and Natural Resources in C.S.F. No. 20282 and a separate parcel, being the present site of Molokai High School and Athletic Field; and (3) approximately 13.675 acres, filed in the Office of the Department of Land and Natural Resources in C.S.F. Nos. 12325, 10414, and 6342, being the present site of Nanaikapono Elementary School.

In the event the exchange of the property is not completed within the time period as specified herein, including recording the deed for the conveyance of the property from the State of Hawaii in accordance with all applicable laws, all right, title and interest to such property shall revert to the United States and the United States shall have the immediate right of entry thereon.

(2) Prior to the conveyance by the Administrator of approximately 89.274 acres described in subsection (b), as a condition of the conveyance, the State of Hawaii shall agree that the Hawaiian Home Land properties to be acquired by the State of Hawaii in the exchange described in subsection (c)(1) shall only be used for educational purposes in perpetuity, and in the event the properties cease to be so used, all or any portion of such properties shall, in its existing condition, revert to the United States.

SEC. 18. (a) Notwithstanding section 203(k) of the Federal Property and Administrative Services Act of 1949, any implementing regulations, and the conveyance of Deed Without Warranty of June 5, 1968 recorded in Book 250 pages 183 through 196 of the Deed Records of Chaves County, New Mexico, on June 5, 1968, and Correction Deed of January 6, 1969, to the Deed Without Warranty of June 5, 1968, recorded in Book 252 pages 100 through 115 of the Deed Records of Chaves County, New Mexico, from the United States of America to the Board of Regents, Eastern New Mexico University (ENMU), the Secretary of Education shall, as to the property described in subsection (b), grant a release to ENMU from all terms, conditions, reservations, and restrictions required by the Federal Property and Administrative Services Act, implementing regulations or contained in the above mentioned Deeds, subject to the United States retaining until June 5, 1998, a reversionary interest, which runs with the land, if any part of the property described in subsection (b) is not used for educational or training purposes.

(b) The property referred to in this section is described as a tract of land lying and being situated in Section 33, Township 11 South, Range 24 East, NMPM, Chaves County, New Mexico and being more particularly described as follows: Beginning at a point on the South boundary of the Pecos Valley Village subdivision from which the Northwest corner of said Section 33 bears N 6°16′28″ W a distance of 2382.64 feet, said point being the intersection of said South boundary and the centerline of Gail Harris Street; thence S 89°37′30″ E along the south boundary of the Pecos Valley Village subdivision, a distance of 753.38 feet; thence S 0°00′43″ E a distance of 2382.10 feet; thence S 89°58′24″ W a distance of 771.18 feet to the centerline of Gail Harris Street; thence N 0°24′51″ E along said centerline, a distance of 2387.43 feet to the point of beginning. Containing 41.7245 acres, more or less.

Real property.
New Mexico.

SEC. 19. Notwithstanding any other provision of law, the Administrator of General Services—

(a) shall convey, without consideration, jurisdiction (custody, accountability and control) to the Institute of American Indian and Alaska Native Culture and Arts Development (Institute), over approximately 31,006 square feet of real property, together with any improvements, structures, and fixtures located thereon and related personal property, located at Cathedral Place at Palace, in Ward Number 4 of the City of Santa Fe and Precinct Number 18 of the County of Santa Fe, New Mexico, and

(b) shall transfer to the Institute, from revenues and collections in the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 United States Code 490(f)), the sum of $2,130,000 for carrying out, in consultation with the Administrator of General Services, repairs and alterations to the facility transferred by this section.

South Carolina.
Real property.

SEC. 20. (a) Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the School District of Charleston County, South Carolina, a deed—

(1) releasing the reversionary interest to the property identified in subsection (b), held by the United States on the date of the enactment of this Act; and

(2) which is subject to the condition that—

(A) the property shall be used for educational purposes for a period of 25 years; and

(B) if during that period the property or any portion of the property ceases to be used for educational purposes, all right, title, and interest in and to the property shall revert to the United States.

(b) All that lot, piece or parcel of land, situate, lying and being on the west side of Chisolm Street, in Ward 2, in the City of Charleston, County of Charleston, and State of South Carolina.

Measuring and containing in front on Chisolm Street 100 feet, and the same on the west or back line, and in depth on the northernmost line from east to west 150 feet and ½ inch, and the same on the southernmost line—be all the said dimensions a little more or less.

Butting and bounding to the north on lands now of Anderson Lumber Company, formerly of Mrs. E.C. Rennecker; east on Chisolm Street aforesaid; south on part of the original tract of land owned by the said A.B. Murray and West Point Mills Company, now reserved by the said grantors, and west on another part of the said original tract, formerly belonging to the said A.B. Murray and West Point Mills Company, and conveyed by them to the United States of America.

The said lot of land hereby conveyed being the northernmost portion of that portion of the Chisolm's Mills Property, reserved by the A.B. Murray and West Point Mills Company after conveyance of the greater part of the said Chisolm's Mills Property to the United States of America, by Deeds which are recorded and may be seen in Book U-24, Page 582 and Page 585 in the R.M.C. Office for Charleston County, and all of which is more fully shown and delineated on a Plat of the said Chisolm's Mills Property, dated April 23, 1914, and made and certified to by H.D. King, Inspector, United States Light House Department, which said Plat is on record in Plat Book C, Page 97, in the R.M.C. Office for Charleston County.

Being the same premises which were conveyed to the United States of America by deed of Andrew B. Murray dated October 23, 1916, and recorded in the Office of the R.M.C. for Charleston County in Book U-24, Page 587, and by deed of West Point Mills Company, dated November 20, 1916, and recorded in said office in Book U-24, Page 589.

SEC. 21. (a) Notwithstanding any other provision of law, agencies are authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by section 201(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

40 USC 490e.

SEC. 22. Notwithstanding any provisions of this Act or any other Act in any fiscal year, obligations of funds for lease, entered into in accordance with section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 490, shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(b) of title 31, United States Code.

Arkansas.

SEC. 23. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 24. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 25. Section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) establishing the Information Technology Fund is amended by adding a sentence at the end of paragraph (a)(2): These plans fulfill the requirements of 31 U.S.C. 1512 and 1513.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $126,612,000 of which $5,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses: $3,414,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Execu-

Gifts and property.

tive Order 10422 of January 9, 1953, as amended: *Provided,* That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1990. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $112,430,000 of which not less than $250,000 shall be made available to establish a program to facilitate the use of job sharing arrangements in agencies as authorized in section 3402 of title 5, United States Code, and of which not to exceed $1,000,000 shall be made available for establishment of Federal health promotion and disease prevention programs for Federal employees; in addition to $81,907,000 for administrative expenses, including direct procurement of health benefits printing, for the retirement and insurance programs of which $11,800,000 shall remain available until expended for costs incurred in implementing the recordkeeping system of the Federal Employees Retirement System, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1990, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles: $2,918,000; and in addition, not to exceed $2,193,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management in amounts sufficient to cover such administrative expenses, as determined by the Inspector General without regard to other statutes.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $3,780,169,000, to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, $2,700,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $5,211,732,000: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

33 USC 776.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,987,000, together with not to exceed $1,450,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $5,142,000.

FEDERAL LABOR RELATIONS AUTHORITY

Salaries and Expenses

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,590,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

Salaries and Expenses

26 USC 7443 note.

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $28,120,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1990".

TITLE V—GENERAL PROVISIONS

This Act

Sec. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

Sec. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505A. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

40 USC 490c.

SEC. 506. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 507. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 508. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 509. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 510. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 511. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Marana, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 512. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 513. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

Abortion.

SEC. 514. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 515. The provision of section 514 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 516. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

Contracts.
Washington.

SEC. 517. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 518. Funds under this Act shall be available as authorized by sections 4501–4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1990.

SEC. 519. (a) Notwithstanding any other provision of law, during fiscal year 1990, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1990 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention). and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1990, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 520. None of the funds available in this Act may be used to contract out positions or downgrade the position classification of the Bureau of Engraving and Printing Police Force.

SEC. 521. The Office of Personnel Management may, during the fiscal year ending September 30, 1990, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

Government organization and employees.
Michigan.

SEC. 522. The Commissioner of the Internal Revenue Service shall take such action as necessary to maintain the existing staffing level without any downgrading of existing employees at the Detroit Data Center in the course of modifying certain payroll and personnel processing operations in the Office of Fiscal Operations and in the Resources Systems Development Division and modifying the capacities of the Center to achieve backup compatibility with the Internal Revenue Service Martinsburg Computer Center in West Virginia.

Contracts.

SEC. 523. The Director of National Drug Control Policy, as established by the Anti-Drug Abuse Act of 1988, Public Law 100-690, 102 Stat. 4181, (1989), is hereby authorized in cooperation with the Administrator of General Services to select a site not to exceed 30,000 occupiable square feet for housing the Office of National Drug Control Policy suitable to meet the mission and security requirements of such Office, and the Administrator of General Services is hereby authorized to enter into a lease for such site under such terms and conditions as the Administrator finds to be in the best interests of the United States, notwithstanding any other provisions of law.

SEC. 524. Notwithstanding any other provision of law, the United States Customs Service may acquire by purchase land in the Bahamas for the operation of an aerostat site. Appropriations for the Air Program shall be available for the acquisition of such land.

Pennsylvania.

SEC. 525. The Director of the Office of Management and Budget shall take appropriate action to provide that the official title of the metropolitan statistical area which includes Allentown, Bethlehem, and Easton, Pennsylvania, shall be the "Allentown-Bethlehem-Easton Metropolitan Statistical Area".

102 Stat. 1759.
Effective date.

SEC. 526. Section 631 of the "Treasury, Postal Service and General Government Appropriations Act, 1989" (Public Law 100-440) is amended by striking "December 22, 1987" and inserting in lieu thereof "October 1, 1983". The amendment made by this section shall be effective as if it had been included in Public Law 100-440.

SEC. 527. The Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended by adding at the end thereof:

State and local governments.

"SEC. 12. In carrying out the protection of the President of the United States, pursuant to section 3056(a) of title 18, at the one non-governmental property designated by the President of the United States to be fully secured by the United States Secret Service on a permanent basis, as provided in section 3.(a) of Public Law 94-524, the Secretary of the Treasury may utilize, with their consent, the law enforcement services, personnel, equipment, and facilities of the affected State and local governments. Further, the Secretary of the Treasury is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. All claims for such reimbursement by the affected governments will be submitted to the Secretary of the Treasury on a quarterly basis. Expenditures for this reimbursement are authorized not to exceed $160,000 in any one fiscal year: *Provided,* That the designated site is located in a municipality or political subdivision of any State where the permanent resident population is 7,000 or less and where the absence of such Federal assistance would place an undue economic burden on the affected State and local governments.".

26 USC 89 note.

SEC. 528. No monies appropriated by this Act may be used to implement or enforce section 1151 of the Tax Reform Act of 1986 or the amendments made by such section.

SEC. 529. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

Effective date.

Wages.
Government organization and employees.

SEC. 530. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

31 USC 1343 note.

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $7,100 except station wagons for which the maximum shall be $8,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may be exceeded by not more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

5 USC 3101 note.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after

January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 610. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 611. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

5 USC 5343 note.

SEC. 612. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1990, or September 30, 1991, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 612 of the Treasury, Postal Service, and General Government Appropriations Act, 1989, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 612; and

(2) during the period consisting of the remainder, if any, of fiscal year 1990, and that portion of fiscal year 1991, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1991, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1990.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

Regulations.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1989, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1989, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

Wages.
Effective date.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1989.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

Sec. 613. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

Sec. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

Sec. 615. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

Reports.
5 USC prec. 3341 note.

Sec. 616. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 617. Section 622(b) of this Act shall have no force and effect.

SEC. 618. No funds appropriated in this or any other Act for fiscal year 1990 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

Classified information.

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term classifiable;

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law:

Provided, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsection (1)-(5) of this section.

Wages.
5 USC 5305 note.

SEC. 619. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1990, the overall average percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 3.6 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1990.

(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1989, and before October 1, 1990, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1989, was equal to or greater than the rate of basic pay described in paragraph (3); or

(B) to a rate exceeding the rate of basic pay described in paragraph (3) if, as of September 30, 1989, the rate of salary or basic pay payable for that office or position was less than the rate described in such paragraph.

(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1989, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

President of U.S.

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

Congress.

(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

(3) The rate of basic pay described in this paragraph is the rate equal to the rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, as of September 30, 1989, increased by 3.6 percent.

Sec. 620. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

Sec. 621. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

Drugs and drug abuse.
Government organization and employees.

SEC. 622. (a) No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1990, or under any other Act appropriating funds for fiscal year 1990, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contract or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payments, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

SEC. 623. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) announce in any solicitation for offers to procure such goods or services (including construction services) the amount of Federal funds that will be used to finance the acquisition for which such offers are being solicited; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

SEC. 624. Notwithstanding section 1346 of title 31, United States Code, or section 608 of Public Law 100–440, funds made available for fiscal year 1990 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 625. (a) Section 5384(c) of title 5, United States Code, is amended—

(1) by striking "(c)" and inserting "(c)(1)"; and

(2) by adding at the end thereof the following:

"(2) not less than a majority of the members of any review board referred to in paragraph (1) shall be career appointees whenever making recommendations under such paragraph with respect to a career appointee. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement.".

(b) Section 5381 of title 5, United States Code, is amended by inserting " 'career appointee'," before "and".

(c) None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the Senior Executive Service upon reassignment or transfer.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1990".

Approved November 3, 1989.

LEGISLATIVE HISTORY—H.R. 2989:

HOUSE REPORTS: No. 101-170 (Comm. on Appropriations) and No. 101-276 (Comm. of Conference).
SENATE REPORTS: No. 101-105 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 28, considered and passed House.
Aug. 4, considered and passed Senate, amended.
Oct. 17, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 18, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 3, Presidential statement.

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PUBLIC LAW 101-137—NOV. 3, 1989

REAUTHORIZING CERTAIN FLOOD AND CRIME HOUSING INSURANCE PROGRAMS AND THE DEFENSE PRODUCTION ACT OF 1950

39-139 (137) O - 89

Public Law 101-137
101st Congress

An Act

Nov. 3, 1989
[H.R. 3281]

To reauthorize the National Flood Insurance Program, the Federal Crime Insurance Program, and the Defense Production Act of 1950, to extend certain housing programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF FLOOD INSURANCE PROGRAM.

(a) In General.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(b) Emergency Implementation.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) Structures on Land Subject to Imminent Collapse or Subsidence.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(d) Limitation on Premiums.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 2. FLOOD ZONE DATA.

Section 1360(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)) is amended by striking paragraph (2) and inserting the following:

"(2) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each of these areas until the date specified in section 1319.".

SEC. 3. REPORT ON FEDERAL ASSUMPTION OF FLOOD INSURANCE PROGRAM.

Section 1340(b) of the National Flood Insurance Act of 1968 (42 U.S.C. 4071(b)) is amended to read as follows:

"(b) Upon making the determination referred to in subsection (a), the Director shall make a report to the Congress and, at the same time, to the private insurance companies participating in the National Flood Insurance Program pursuant to section 1310 of this Act. Such report shall—

"(1) state the reason for such determinations,

"(2) be supported by pertinent findings,

"(3) indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and

"(4) contain such recommendations as the Director deems advisable.

The Director shall not implement the program of flood insurance authorized under chapter I through the facilities of the Federal Government until 9 months after the date of submission of the report under this subsection unless it would be impossible to continue to effectively carry out the National Flood Insurance Program operations during this time.".

SEC. 4. AUTHORIZATION FOR STUDIES.

Section 1376(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated for studies under this title not to exceed $36,283,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991".

SEC. 5. SEA LEVEL RISE STUDY.

42 USC 4014 note.

The Director of the Federal Emergency Management Agency shall conduct a study to determine the impact of relative sea level rise on the flood insurance rate maps. This study shall also project the economic losses associated with estimated sea level rise and aggregate such data for the United States as a whole and by region. The Director shall report the results of this study to the Congress not later than one year after the date of enactment of this Act. Funds for such study shall be made available from amounts appropriated under secton 1376(c) of the National Flood Insurance Act of 1968.

Reports.

SEC. 6. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1989" in the matter preceding paragraph (1) and inserting "September 30, 1991".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(c) LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended—

(1) by striking "September 30, 1989" and inserting "September 30, 1991"; and

(2) by striking "5 percent" and inserting "15 percent".

(d) ANNUAL REPORT.—Section 1234 of the National Housing Act (12 U.S.C. 1749bbb-10d) is amended to read as follows:

"REPORTS ON OPERATIONS

"SEC. 1234. The Director shall report to the Congress not less than annually on the program authorized by this title. The reports under this section shall include—

"(1) full and complete information on the operations and activities of the Director under this part, together with such recommendations with respect thereto as the Director may deem appropriate; and

"(2) a detailed justification of any increase in premium rates charged for crime insurance made during the period for which the report is submitted.".

SEC. 7. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

42 USC 1485.

42 USC 1490.

(b) Rural Area Classification.—Section 520 of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

42 USC 1490c.

(c) Mutual and Self-Help Housing Grant and Loan Authority.—Section 523(f) of the Housing Act of 1949 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

42 USC 1490m note.

(d) Rural Rental Rehabilitation Demonstration.—Section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 8. EXTENSION OF EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.

Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1989" and inserting "September 30, 1990".

SEC. 9. DEFENSE PRODUCTION ACT OF 1950.

(a) Extension of Programs.—The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1989" and inserting "August 10, 1990".

(b) Authorization of Appropriations.—Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for fiscal year 1990, not to exceed $50,000,000 to carry out the provisions of section 303.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal year 1990 may not exceed $50,000,000.".

Approved November 3, 1989.

LEGISLATIVE HISTORY—H.R. 3281 (S. 1672) (*See* H.J. Res. 412):

SENATE REPORTS: No. 101-142 accompanying S. 1672 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 19, considered and passed House.
Sept. 27, considered and passed Senate, amended, in lieu of S. 1672.
Oct. 5, House concurred in Senate amendment with amendments.
Oct. 24, Senate concurred in House amendments.

O

Public Law 101-138
101st Congress

Joint Resolution

Designating November 17, 1989, as "National Philanthropy Day".

Nov. 3, 1989
[S.J. Res. 86]

Whereas there are more than 800,000 nonprofit philanthropic organizations in the United States;

Whereas such organizations employ more than 10,000,000 individuals, including 4,500,000 volunteers;

Whereas the people of the United States contributed approximately $94,000,000,000 in 1987 to support such organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;

Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, and community service organizations, and to the institutions and organizations which aid and comfort disadvantaged, sick or elderly individuals; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills and resources of individuals who carry out the missions of such organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 17, 1989, is designated as "National Philanthropy Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved November 3, 1989.

LEGISLATIVE HISTORY—S.J. Res. 86:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 21, considered and passed Senate.
Oct. 24, considered and passed House.

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Public Law 101-139
101st Congress

Joint Resolution

Nov. 3, 1989
[S.J. Res. 120]

To designate the period commencing November 12, 1989, and ending November 18, 1989, as "Geography Awareness Week".

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States of America is a truly unique nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas, historically, geography has aided Americans in understanding the wholeness of their vast nation and the great abundance of its natural resources;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas statistics illustrate that a significant number of American students could not find the United States on a world map, could not identify Alaska and Texas as the Nation's largest States, and could not name the New England States;

Whereas, according to a recent Gallup poll, Americans ranked among the bottom third on an international test of geography knowledge, and those age eighteen to twenty-four came in last;

Whereas geography has been offered to fewer than one in ten United States secondary school students as part of the curriculum;

Whereas departments of geography are being eliminated from American institutes of higher learning, thus endangering the discipline of geography in the United States;

Whereas traditional geography has virtually disappeared from the curricula of American schools while still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, and the environment;

Whereas the United States is a nation of worldwide involvements and global influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world;

Whereas, one-third of adult Americans cannot name four of the sixteen NATO member nations, and another one-third cannot name any; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 12, 1989, and ending November 18, 1989, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 3, 1989.

LEGISLATIVE HISTORY—S.J. Res. 120:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Oct. 24, considered and passed House.

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PUBLIC LAW 101-140—NOV. 8, 1989

PUBLIC DEBT LIMIT INCREASE

39-139 (140) O - 89

Public Law 101-140
101st Congress

Joint Resolution

Nov. 8, 1989
[H.J. Res. 280]

Increasing the statutory limit on the public debt.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection, and inserting in lieu thereof "$3,122,700,000,000".

TITLE II—REPEAL OF SECTION 89 NONDISCRIMINATION RULES

SEC. 201. AMENDMENT OF 1986 CODE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 202. REPEAL OF SECTION 89.

(a) IN GENERAL.—Section 89 (relating to benefits provided under certain discriminatory employee benefit plans) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 89.

26 USC 89 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 203. REINSTATEMENT OF PRE-1986 ACT NONDISCRIMINATION RULES.

(a) IN GENERAL.—

26 USC 6652, 79, 105, 120, 127, 129, 125, 117, 132, 505.

(1) Each provision of law amended by subsection (b), (c), (d)(1), or (g) of section 1151 of the Tax Reform Act of 1986 is amended to read as if the amendments made by such subsection had not been enacted.

26 USC 3121, 3231, 3306, 3401, 4976, 505, 129, 117, 120, 127, 132; 42 USC 409.

(2) Each provision of law amended by paragraph (22), (27), or (31) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended to read as if the amendments made by such paragraph had not been enacted.

(3) Subparagraph (A) of section 125(g)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "subparagraph (B) of section 410(b)(1)" and inserting "section 410(b)(2)(A)(i)".

(4) Section 162(l)(2) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5) Subparagraph (C) of section 401(a)(9) is amended—

(A) by striking "(as defined in section 89(i)(4))", and

(B) by adding at the end the following: "For purposes of this subparagraph, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(6)(A) Subparagraph (C) of section 414(n)(3) is amended by striking "89,".

(B) Paragraph (1) of section 414(r) is amended by striking "sections 89 and" and inserting "section".

(C) Paragraph (2) of section 414(t) is amended by striking "89,".

(7) Sections 3021(c) and 6070 of the Technical and Miscellaneous Revenue Act of 1988 are hereby repealed.

26 USC 89 notes.

(b) EXCEPTIONS.—

(1)(A) Paragraph (7) of section 79(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(7) EXEMPTION FOR CHURCH PLANS.—

"(A) IN GENERAL.—This subsection shall not apply to a church plan maintained for church employees.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'church plan' and 'church employee' have the meaning given such terms by paragraphs (1) and (3)(B) of section 414(e), respectively, except that—

"(i) section 414(e) shall be applied by substituting 'section 501(c)(3)' for 'section 501' each place it appears, and

"(ii) the term 'church employee' shall not include an employee of—

"(I) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training),

"(II) an organization described in section 170(b)(1)(A)(iii), and

"(III) an organization described in section 501(c)(3), the basis of the exemption for which is substantially similar to the basis for exemption of an organization described in subclause (II)."

(2) Paragraph (2) of section 125(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended to read as follows:

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—

"(A) IN GENERAL.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(B) EXCEPTION FOR CASH AND DEFERRED ARRANGEMENTS.—Subparagraph (A) shall not apply to a profit-sharing or stock bonus plan or rural cooperative plan (within the meaning of section 401(k)(7)) which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee.

"(C) EXCEPTION FOR CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Subparagraph (A) shall not apply to a plan maintained by an educational organization described in section 170(b)(1)(A)(ii) to the extent of amounts which a covered employee may elect to have the employer pay as contributions for post-retirement group life insurance if—

"(i) all contributions for such insurance must be made before retirement, and

"(ii) such life insurance does not have a cash surrender value at any time.

For purposes of section 79, any life insurance described in the preceding sentence shall be treated as group-term life insurance."

26 USC 79 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1151 of the Tax Reform Act of 1986.

SEC. 204. OTHER PROVISIONS RELATING TO NONTAXABLE BENEFITS.

(a) DEPENDENT CARE ASSISTANCE.—

(1) IN GENERAL.—Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by adding at the end thereof the following new sentence: "If any plan would qualify as a dependent care assistance program but for a failure to meet the requirements of this subsection, then, notwithstanding such failure, such plan shall be treated as a dependent care assistance program in the case of employees who are not highly compensated employees."

(2) EXCLUDED EMPLOYEES.—

(A) Section 129(d) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of paragraphs (3) and (8), there shall be excluded from consideration—

"(A) subject to rules similar to the rules of section 410(b)(4), employees who have not attained the age of 21 and completed 1 year of service (as defined in section 410(a)(3)), and

"(B) employees not included in a dependent care assistance program who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employees, if there is evidence that dependent care benefits were the subject of good faith bargaining between such employee representatives and such employer or employers."

(B) Section 129(d)(3) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking the last sentence.

(3) DELAY IN APPLICATION OF BENEFITS TEST.—

(A) Paragraph (7) of section 129(d) (as in effect after the amendment made by paragraph (14) of section 1011B(a) of the Technical and Miscellaneous Revenue Act of 1988) is redesignated as paragraph (8).

(B) Paragraph (1) of section 129(d) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (8)".

(C) Section 129(e)(6) is amended by striking "(7)" and inserting "(8)".

(D) Section 129(d)(8) (as redesignated by subparagraph (A)) shall apply to plan years beginning after December 31, 1989.

26 USC 129 note.

(b) LINE OF BUSINESS TEST.—

26 USC 414 note.

(1) APPLICATION OF LINE OF BUSINESS TEST FOR PERIOD BEFORE GUIDELINES ISSUED.—In the case of any plan year beginning on or before the date the Secretary of the Treasury or his delegate issues guidelines and begins issuing determinations under section 414(r)(2)(C) of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.

(2) DEPENDENT CARE.—Paragraph (1) of section 414(r) is amended by striking "section 410(b)" and inserting "sections 129(d)(8) and 410(b)".

(c) GROUP-TERM LIFE INSURANCE.—Paragraph (7) of section 505(b) (relating to $200,000 compensation limit) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply in determining whether the requirements of section 79(d) are met."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a)(1), (a)(2), and (b)(2) shall apply to years beginning after December 31, 1988.

26 USC 129 note.

(2) The amendments made by subsection (a)(3) shall apply to plan years beginning after December 31, 1989.

26 USC 129 note.

(3) The provisions of subsection (b)(1) shall apply to years beginning after December 31, 1986.

26 USC 414 note.

(4) The amendment made by subsection (c) shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988.

26 USC 505 note.

TITLE III—RESTORATION OF TRUST FUNDS

SEC. 301. RESTORATION OF TRUST FUNDS.

31 USC 3101 note.

(a) IN GENERAL.—

(1) OBLIGATIONS ISSUED.—Except as provided in subsection (b), within 30 days after the expiration of any debt issuance suspension period to which this section applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(A) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(B) issuance of such obligations had occurred immediately on the expiration of the debt issuance suspension period.

(2) INTEREST CREDITED.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this section applies, the Secretary of the Treasury shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to paragraph (1), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(b) INTEREST ON MARKET-BASED OBLIGATIONS.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this section applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(c) CREDITED AMOUNTS TREATED AS INTEREST.—All amounts credited under this section shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(d) DEFINITIONS.—For purposes of this section—

(1) DEBT ISSUANCE SUSPENSION PERIOD.—The term "debt issuance suspension period" means the period beginning on or after October 31, 1989 and ending on the date of enactment of this Act.

(2) FEDERAL FUND.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect

of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

Approved November 8, 1989.

LEGISLATIVE HISTORY—H.J. Res. 280:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 17, considered and passed House pursuant to H. Con. Res. 106.
Nov. 7, considered and passed Senate, amended. House concurred in Senate amendment.

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Public Law 101-141
101st Congress

Joint Resolution

Nov. 8, 1989
[S.J. Res. 19]

To designate November 8, 1989, as "Montana Centennial Day".

Whereas for a century the people of Montana have made substantial contributions to the economic and social well-being of the United States of America;

Whereas the State of Montana, known as "Big Sky Country", with wide vistas and scenic mountains, is a State of incomparable beauty; and

Whereas the history of Montana is forever intertwined with the history of westward expansion in the United States of America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 8, 1989, is designated as "Montana Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Montana to the United States of America over the past century.

Approved November 8, 1989.

LEGISLATIVE HISTORY—S.J. Res. 19:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 22, considered and passed Senate.
Nov. 7, considered and passed House.

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Public Law 101-142
101st Congress

Joint Resolution

Designating October 25, 1989, as "National Arab-American Day".

Nov. 8, 1989
[H.J. Res. 241]

Whereas the rich history and tradition of Arab culture has contributed to western civilization in many fields, including science, medicine, geography, and architecture;
Whereas the contributions made by Arab culture transcend geographic, political, and religious classification;
Whereas Arab-Americans have made, and continue to make, important contributions to the economic prosperity and cultural life of our Nation since October 1854, when the first recorded Arab immigrant arrived in the United States;
Whereas the term "Arab" represents a people who are followers of the 3 great monotheistic religions and are bound by the common language of Arabic;
Whereas Arabs are of one origin, but are citizens of many countries;
Whereas Arab-Americans have worked hard since their arrival and have been productive United States citizens; and
Whereas the people of the United States should always remember that there are almost 3,000,000 Arab-Americans who are a part of the mosaic of cultures of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 25, 1989, is designated as "National Arab-American Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize this day by becoming aware of the rich cultural traditions of Arab-Americans and by participating in appropriate ceremonies and activities.

Approved November 8, 1989.

LEGISLATIVE HISTORY—H.J. Res. 241:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 24, considered and passed House.
Oct. 25, considered and passed Senate.

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Public Law 101-143
101st Congress

Joint Resolution

Nov. 8, 1989
[H.J. Res. 131]

To designate May 25, 1989, as "National Tap Dance Day".

Whereas the multifaceted art form of tap dancing is a manifestation of the cultural heritage of our Nation, reflecting the fusion of African and European cultures into an exemplification of the American spirit, that should be, through documentation, and archival and performance support, transmitted to succeeding generations;

Whereas tap dancing has had a historic and continuing influence on other genres of American art, including music, vaudeville, Broadway musical theater, and film, as well as other dance forms;

Whereas tap dancing is perceived by the world as a uniquely American art form;

Whereas tap dancing is a joyful and powerful aesthetic force providing a source of enjoyment and an outlet for creativity and self-expression for Americans on both the professional and amateur level;

Whereas it is in the best interest of the people of our Nation to preserve, promote, and celebrate this uniquely American art form;

Whereas Bill "Bojangles" Robinson made an outstanding contribution to the art of tap dancing on both stage and film through the unification of diverse stylistic and racial elements; and

Whereas May 25, as the anniversary of the birth of Bill "Bojangles" Robinson, is an appropriate day on which to refocus the attention of the Nation on American tap dancing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 25, 1989, is designated "National Tap Dance Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

Approved November 8, 1989.

LEGISLATIVE HISTORY—H.J. Res. 131:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 25, considered and passed House.
Oct. 27, considered and passed Senate.

○

Public Law 101-144
101st Congress

An Act

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 9, 1989
[H.R. 2916]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, namely:

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990.

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

Veterans Benefits Administration

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $15,367,506,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $501,200,000, to remain available until expended. Any funds transferred to this account from the Veterans' Job Training appropriation under the authority of section 126 of Public Law 98-151 which were not returned to the Veterans' Job Training appropriation as authorized by section 16 of Public Law 98-77, as amended, shall be available until expended for all expenses of this account, which until March 31, 1990, shall be deemed to include such expenses as may be incurred in carrying out the purposes of section 18 of Public Law 98-77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $13,940,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $313,500,000, to remain available until expended.

During 1990, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1990, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Secretary of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1990, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

DIRECT LOAN REVOLVING FUND

During 1990, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5);

$11,549,431,000, plus reimbursements: *Provided*, That of the sum appropriated, $7,250,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further*, That of the funds made available under this heading, $278,882,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1991, $216,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $46,112,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1991.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $7,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $817,059,000, including $553,329,000 for the Veterans Benefits Administration: *Provided*, That, during fiscal year 1990, jurisdictional average employment shall not be less than 12,600 for the Veterans Benefits Administration.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $21,949,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of

Veterans Affairs, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $420,249,000, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in the appropriation "Construction, major projects" for fiscal year 1990, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1990, and (2) by the awarding of a construction contract by September 30, 1991: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint.

Contracts.

Reports.

CONSTRUCTION, MINOR PROJECTS

(INCLUDING TRANSFER OF FUNDS)

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $113,699,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided*, That not more than $44,136,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes: *Provided further,* That not to exceed $200,000 of the funds available shall be used to assist the City of Sturgis, South Dakota, in improving a wastewater treatment plant used by the Department of Veterans Affairs Medical Center, Fort Meade, South Dakota: *Provided further,* That up to $21,000,000 of the funds provided under this heading may be transferred to and merged with sums appropriated for "General operating expenses" or "Office of Inspector General".

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $29,375,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031–5037), $42,000,000, to remain available until September 30, 1992.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $4,356,000, to remain available until September 30, 1992.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1990 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1990 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1990 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1989.

GENERAL PROVISION

Notwithstanding the earmarking of funds for the Veterans Benefits Administration identified in this Act within the general operating expenses appropriation, $565,329,000 of the $817,059,000 appropriated shall be for the Veterans Benefits Administration.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $8,115,221,525, to remain available until expended: *Provided*, That of the new budget authority provided herein, $134,373,600 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $457,717,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,030,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); $2,500,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $883,830,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $180,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, as amended; $1,148,332,500 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), of which $47,302,500 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $112,350,000 shall be for certificates to assist in the relocation of other eligible tenants or for project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987; up to $318,545,152 shall be for section 8 assistance for property disposition; $782,521,950 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); and $1,373,060,823 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended: *Provided further*, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That up to $143,490,000 shall be for loan management under section 8; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $8,115,221,525 provided herein, $324,062,500 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $50,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount, and the $20,000,000 appropriated under Public Law 100-404 for such program, shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof; and $50,000,000 shall be used for grants under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.): *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1990, shall be rescinded: *Provided further,* That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That up to $14,000,000 of the funds provided under this heading may be transferred, merged, and added to sums appropriated for "Salaries and expenses" and any amount or amounts earmarked under this heading may be reduced accordingly.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting after subsection (a) the following new subsection:

Contracts. Loans. Indians. Alaska.

"(b)(1) Each contract for loans (other than preliminary loans) or contributions for the development, acquisition, or operation of public housing and public housing for Indians and Alaska Natives in accordance with the Indian Housing Act of 1988 shall provide that the total development cost of the project on which the computation of any annual contributions under this Act may be based may not exceed the amount determined under paragraph (2) (for the appropriate structure type) unless the Secretary provides otherwise, and in any case may not exceed 110 per centum of such amount unless the Secretary for good cause determines otherwise.

"(2) For purposes of paragraph (1), the Secretary shall determine the total development cost by multiplying the construction cost guideline for the project (which shall be determined by averaging the current construction costs, as listed by not less than 2 nationally recognized residential construction cost indices, for publicly bid construction of a good and sound quality) by—

"(A) in the case of elevator type structures, 1.6; and

"(B) in the case of nonelevator type structures, 1.75.".

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $1,091,978,475, to remain available until expended, of which $517,777,500 shall be for existing certificates, $449,145,000 shall be for housing vouchers and $125,055,975 shall be for loan management under section 8: *Provided*, That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further*, That to the extent any amount in this paragraph is insufficient for the purpose for which it is earmarked, the Secretary may supplement such amount with up to $90,000,000 from funds otherwise earmarked under this paragraph: *Provided further*, That to the extent such supplement is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $90,000,000 to fund such insufficiency, and the $1,373,060,823 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred.

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o), $130,000,000, to remain available until September 30, 1992: *Provided*, That section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1991".

42 USC 1490m note.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1990 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1990, $480,106,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That 25 per centum of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped, with the mentally ill homeless handicapped receiving priority: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further,* That persons disabled as a result of infection with the human immunodeficiency virus shall be considered eligible for assistance under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q): *Provided further,* That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1990 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

12 USC 1701q note.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $6,000,000, to remain available until September 30, 1991.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,795,600,000.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, $3,500,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1989, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1990, to remain available until expended: *Provided,* That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $350,093,000, to remain available until expended.

Loans.

During fiscal year 1990, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1990, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $75,000,000,000.

During fiscal year 1990, gross obligations for direct loans of not to exceed $88,600,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1990, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,100,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1990, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $83,000,000,000 of loan principal.

HOMELESS ASSISTANCE

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $75,000,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $130,000,000, to remain available until expended.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless as authorized under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $11,000,000, to remain available until expended.

SECTION 8 MODERATE REHABILITATION

SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), $75,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000, to remain available until September 30, 1992, of which $50,000,000 shall be derived by transfer from amounts deobligated in fiscal year 1990 in the Urban Development Action Grants account: *Provided*, That not to exceed $93,400,000 shall be available for the discretionary fund established pursuant to section 107 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301): *Provided further*, That $1,200,000 of the $93,400,000 shall be available for a special project under section 107 for infrastructure development on Hawaiian home lands by the Hawaii State Department of Hawaiian Home Lands, notwithstanding the provisions of section 107(d)(1): *Provided further*, That of such $93,400,000, notwithstanding any requirements or other provision in title I of the Housing and Community Development Act of 1974, as amended, $16,000 shall be available for the communities of Parshall and New Town, North Dakota, for municipal services provided in connection with properties owned by the Fort Berthold Indian Reservation Housing Authority, and $500,000 shall be available for West Valley City, Utah, for basic infrastructure in connection with the West Ridge Commerce Industrial Park: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note): *Provided further*, That $2,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181): *Provided further*, That after September 30, 1989, no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

42 USC 5304 note.

During fiscal year 1990, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $144,000,000 of contingent liability for loan principal.

REHABILITATION LOAN FUND

During fiscal year 1990, collections, unexpended balances of prior appropriations (including any recoveries of prior obligations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1989, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided*, That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Secretary of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Secretary of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, $13,200,000, to remain available until expended.

Policy Development and Research

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $21,000,000, to remain available until September 30, 1991.

Fair Housing and Equal Opportunity

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $12,753,000, to remain available until September 30, 1991: *Provided,* That not less than $6,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987 and the demonstration period authorized in section 561(e) of such Act shall be deemed to be September 30, 1990, except for purposes of construing the last sentence of section 561(c)(2) of such Act.

42 USC 3616 note.

Management and Administration

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $738,530,000, of which $397,278,000 shall be provided from the various funds of the Federal Housing Administration: *Provided,* That during fiscal year 1990, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,402 for Public and Indian Housing Programs.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $31,065,000, of which $6,584,000 shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

Maryland. Grants.

Notwithstanding any other provision of law or other requirement, the City of College Park, in the State of Maryland, is authorized to retain any categorical settlement grant funds, urban renewal grant funds, and land disposition proceeds that remain after the financial closeout of the Lakeland Urban Renewal Project (R-44 No. B-79-UR-24-0001), and to use such funds and proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of College Park shall retain such funds and proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds and proceeds, including any interest.

Connecticut.

Notwithstanding any other provision of law or other requirement, the City of Hartford in the State of Connecticut, is authorized to retain any land disposition proceeds from the financially closed-out Sheldon-Charter Oak, Section A Urban Renewal Project (No. Conn. R-77) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Hartford shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Pennsylvania.

It is hereby approved in accordance with section 124(c) of the Housing and Community Development Act of 1987 (Public Law 100-242, 101 Stat. 1815, 1847), that as specified in section 124(a) of such Act, accrued interest is forgiven and interest paid shall be returned to the City of Pittsburgh.

Washington. Aged persons.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall approve, subject to availability of funds in project reserves, the use by the Seattle Housing Authority of up to $450,000 from project reserves of the Bay View Tower Project (No. 127-38044) for a program of health care services for the elderly, as determined by the Seattle Housing Authority.

12 USC 1709.

Section 203(b)(2) of the National Housing Act is amended by inserting "(185 percent during fiscal year 1990)" after "(A) 150 percent".

12 USC 1715z.

Section 235 of the National Housing Act is amended by adding at the end the following new subsection:

Loans.

"(r) REFINANCING.—

"(1) REVIEW OF ASSISTANCE PAYMENTS CONTRACTS.—

"(A) The Secretary shall periodically review each contract under which the Secretary is making assistance payments under this section to determine if a refinancing of the mortgage, loan, or advance of credit involved will result in a sufficient reduction in assistance payments to warrant such refinancing.

"(B) In the case of assistance payments contracts in effect on the date of enactment of this section, the Secretary shall complete such review within 60 days in order to permit the refinancing to be completed during fiscal year 1990.

"(2) REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall offer financial assistance appropriate to encourage the refinancing. The assistance may include the following:

"(A) For lenders and mortgagees providing refinancing, the payment of reasonable mortgage or loan origination fees, discount points, and other expenses required to refinance; and

"(B) For the homeowner or cooperative member involved, the payment of an amount that does not exceed 1 percent of the principal amount refinanced.

"(3) METHOD OF PAYMENT OF REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall provide incentives in a manner that does not increase total expenditures in fiscal year 1990. The Secretary shall structure refinancings as follows:

"(A) Lenders and mortgagees providing refinancings under this subsection may charge an interest rate for refinancing that is not greater than 0.5 percent higher than the prevailing market rate for refinancing.

"(B) Payments to the homeowner or cooperative member to encourage refinancing shall be paid through a reduction in the monthly payment of the homeowner or cooperative member under the mortgage, loan, or advance of credit.

"(4) REVISION OF CONTRACTS AND RESCISSION OF EXCESS AMOUNTS.—

"(A) The Secretary shall make such revisions in any assistance payments contract (including the amount of assistance payments made under the contract) as are necessary to reflect a refinancing obtained pursuant to this subsection. A revised assistance payments contract under this paragraph shall not be considered to be a new contract under this section.

"(B) Any contract authority that becomes available as a result of the revision of an assistance payments contract under this paragraph shall be rescinded.".

Section 404 in title IV, General Provisions of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (Public Law 101-45) is hereby repealed.

103 Stat. 128.

42 USC 4822 note.

If the Secretary of the Department of Housing and Urban Development has not issued the lead-based paint technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods and acceptable post-abatement lead dust levels by April 1, 1990, the Department's September 29, 1989, draft guidelines shall take effect and remain in force until revised by the Secretary.

Of the amount appropriated in this Act under the heading "Annual contributions for assisted housing" and earmarked for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437), the Secretary shall set aside and may use up to

$1,000,000 to indemnify any public housing agency that receives assistance under section 14 of the Act to test and abate lead-based paint in the Lead-Based Paint Abatement Demonstration Program under section 302(d)(2)(A) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)(A)) and any person under contract with such agency, with respect to all or parts of claims arising from such testing or abatement, in accordance with the terms and conditions that the Secretary shall specify for the validation, processing, and payment of claims, and any other matters concerning the administration of the amount set aside: *Provided,* That any balances not obligated before October 1, 1992, shall be made available without regard to this paragraph.

Of the funds made available by this Act for Annual Contributions for Assisted Housing, $896,000 shall be for project-based assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) for the Ganado Acres project.

TITLE III

INDEPENDENT AGENCIES

American Battle Monuments Commission

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $16,000,000, to remain available until expended: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

36 USC 121b.

36 USC 122.

36 USC 122a.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $35,700,000: *Provided,* That not more than $325,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the Court of Veterans Appeals as authorized by 38 U.S.C. 4051-4091, $4,000,000: *Provided,* That such sum shall be available without regard to section 509 of this Act: *Provided further,* That, of the funds provided under this heading, there shall be transferred to and merged with sums appropriated for "DEPARTMENT OF VETERANS AFFAIRS, MEDICAL AND PROSTHETIC RESEARCH" such amount, not to exceed $1,000,000, as the Chief Judge of the Court of Veterans Appeals determines on or before July 1, 1990, to be excess to the needs of the Court during fiscal year 1990.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $12,569,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; acquisition or purchase, hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; lease purchase, under a lease purchase contract hereby authorized to be entered into by the Environmental Protection Agency, which lease purchase contract shall have a term not to exceed twenty years and shall provide that title to the property shall vest in the United States at or before the expiration of the lease term, for the Motor Vehicles Emissions Laboratory; construction, alteration, repair, rehabilitation, and renovation of

Contracts.

facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $874,583,000: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, $31,734,000, of which $10,317,000 shall be derived from the Hazardous Substance Superfund trust fund.

RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For research and development activities, $241,500,000, to remain available until September 30, 1991: *Provided*, That not more than $11,600,000 of these funds shall be available for procurement of laboratory equipment: *Provided further*, That up to $5,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Salaries and expenses".

ABATEMENT, CONTROL, AND COMPLIANCE

(INCLUDING TRANSFER OF FUNDS)

For abatement, control, and compliance activities, $829,940,000, to remain available until September 30, 1991: *Provided*, That up to $10,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Salaries and expenses": *Provided further*, That up to $2,800,000 shall be available for grants and cooperative agreements to develop and implement asbestos training and accreditation programs: *Provided further*, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $15,000,000, of which $3,000,000 shall be made available as a grant for an environmental laboratory addition to be constructed and owned by the University of Nevada, under such terms and conditions as the Administrator deems appropriate, with all of such sums, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,575,000,000, to be derived from the Hazardous Substance Superfund, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $82,000,000 during fiscal year 1990, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: *Provided further*, That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $46,500,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA, as amended, during fiscal year 1990: *Provided further*, That section 9611(c)(12) of the Superfund Amendments and Reauthorization Act of 1986, is amended by striking "$10,000,000" and inserting "$20,000,000": *Provided further*, That no more than $220,000,000 of these funds shall be available for administrative expenses.

42 USC 9611.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $76,000,000, to remain available until expended: *Provided*, That no more than $6,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

(INCLUDING RESCISSION)

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,050,000,000, to remain available until expended, of which $1,002,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $1,002,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $46,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $7,000,000 for section 510, $20,000,000 for section 513, and $19,000,000 for section 515: *Provided*, That of the funds appropriated in previous fiscal years under this heading to carry out the purposes of section 206(a) of the Federal Water Pollution Control Act, as amended, $47,700,000 are rescinded: *Provided further*, That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act: *Provided further*, That, notwithstanding any other provision of law, from sums appropriated under this paragraph and allotted to the State of Texas under section 205 of the Federal Water Pollution Control Act, as amended, the State of Texas is authorized to set aside, at the discretion of the Governor, up to $15,000,000 for the establishment of a special revolving fund for the sole purpose of making loans to residents of colonias in the counties of Cameron, Hidalgo, Zapata, Starr, Webb, Maverick, Val Verde, Terrell, Brewster, Presidio, Hudspeth, and El Paso. Repayment amounts may remain in the special revolving fund for future loans to colonia residents, and funds set aside but not used for loans, including repayment amounts, may be transferred by the State to its general title VI revolving fund. Loans from the special revolving fund shall be made for the purposes of connecting residences to sewer collection systems and making any necessary plumbing improvements to enable such residences to meet existing county or city code requirements. The Texas Water Development Board is authorized to use funds from this set-aside for the administrative expenses of the special revolving fund: *Provided further*, That, notwithstanding any provision of law, from sums appropriated under this paragraph and before allotment of title II funds to the States under section 205, the Administrator shall award a grant under title II for $6,800,000 for construction of a connector sewer line, consisting of a main trunk line and four pump stations, for the Town of Honea Path, South Carolina to the wastewater treatment facility in the Town of Ware Shoals, South Carolina: *Provided further*, That, notwithstanding any other provision of law, sums appropriated under this heading allotted for title VI capitalization grants to American Samoa, Commonwealth of the Northern Mariana Islands, Guam, the Trust Territory of Palau (or its successor entity), Virgin Islands and the District of Columbia, may be used for title II construction grants at the request of the chief executive of each of the above named entities.

Taxes.
Loans.

South Carolina.

ADMINISTRATIVE PROVISIONS

42 USC 4370b.

Notwithstanding any other provision of law, after September 30, 1990, amounts deposited in the Licensing and Other Services Fund from fees and charges assessed and collected by the Administrator for services and activities carried out pursuant to the statutes administered by the Environmental Protection Agency shall thereafter be available to carry out the Agency's activities in the programs for which the fees or charges are made.

In order to promote the development of innovative technology for the study, mitigation and management of hazardous and toxic substances, the Administrator of the Environmental Protection Agency may lease a portion of the Environmental Technology and Engineering Center located in Edison, New Jersey to the New Jersey Institute of Technology, under such terms and conditions which he determines to be in the public interest, for a term not to exceed ten years. Such lease may be with or without consideration and any compensation received may be used by the Agency to defray costs of providing the space and supporting services.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $1,500,000.

NATIONAL SPACE COUNCIL

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,000,000: *Provided*, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $2,897,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $100,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; $142,499,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $2,639,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $275,290,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $10,734,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $40,303,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities. In fiscal year 1990, no funds in excess of (1) $32,000,000 for operating expenses, (2) $165,000,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $134,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,360,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,200,000. Administrative expenses of the Consumer Information Center in fiscal year 1990 shall not exceed $2,092,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1990 in excess of $5,200,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,888,000.

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), as amended, $1,100,000, to remain available until expended: *Provided*, That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act.

42 USC 11313 note.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $5,366,050,000, to remain available until September 30, 1991: *Provided*, That of the funds made available under this heading, $1,800,000,000 is for the Space Station Program only, $750,000,000 of which shall not become available for obligation until June 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of the funds made available under this heading, $320,000,000 is for space transportation capability development only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of $2,064,600,000 made available under this heading for space science and applications, only $1,000,000,000 shall be available prior to April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That no funds appropriated by this Act or any other Act may be used to enter into contracts of the National Aeronautics and Space

Administration for the comet rendezvous and asteroid flyby and Cassini missions (CRAF/Cassini) if the estimated total budget authority for development of the two spacecraft, through launch plus 30 days of the Cassini mission, exceeds $1,600,000,000.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $4,614,600,000, to remain available until September 30, 1991: *Provided,* That of the funds made available under this heading, $1,400,000,000 is for space transportation system only, which amount shall not become available for obligation until April 15, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That $75,000,000 of the funds appropriated in section 101(g) of Public Law 99-591 for orbiter production shall be available until September 30, 1991, for all expenses of this account.

CONSTRUCTION OF FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $601,300,000, to remain available until September 30, 1992: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities: *Provided further,* That up to $152,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Space flight, control and data communications" and/or "Research and program management": *Provided further,* That of the amounts transferred under the authority of the foregoing proviso, not to exceed $85,000,000 may be for "Space flight, control and data communications", and not to exceed $67,000,000 may be for "Research and program management": *Provided further,* That in addition to the foregoing transfers, up to $25,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Research and development".

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, purchase of one aircraft for replacement only (for which partial payment may be made by exchange of at least one existing administrative aircraft and such other existing aircraft as may be considered appropriate), maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,982,200,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive: *Provided further,* That of the funds made available under this heading, up to $195,000 may be transferred to the "Office of Inspector General": *Provided further,* That the grade retention provisions of 5 U.S.C. 5362 shall remain available to Goddard Space Flight Center employees of the National Aeronautics and Space Administration, displaced by the conversion on September 3, 1989, of their civil service positions to private sector positions, from the time an affected employee is placed in a lower graded position until one or more of the conditions of 5 U.S.C. 5362(d) is met.

Government organization and employees.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $8,795,000.

ADMINISTRATIVE PROVISIONS

SMALL AND DISADVANTAGED BUSINESS

Minorities.

42 USC 2473b.

The NASA Administrator shall annually establish a goal of at least 8 per centum of the total value of prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, which funds will be made available to small business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) (6)), including Historically Black Colleges and Universities and minority educational institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

To facilitate progress in reaching this goal, the NASA Administrator shall submit within one year from enactment of this Act a plan describing the process to be followed to achieve the prescribed level of participation in the shortest practicable time.

POLAR PLATFORM

Of the funds made available in this Act for space station development, not more than $10,700,000 shall be reduced from the $107,000,000 requested for work performed on or under the work package numbered 3 prime contract (polar platform).

National Credit Union Administration

CENTRAL LIQUIDITY FACILITY

During fiscal year 1990, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1990 shall not exceed $864,000.

ADMINISTRATIVE PROVISION

Section 120 of the Federal Credit Union Act (12 U.S.C. 1766) is amended by adding at the end thereof the following new subsection:

"(k) Notwithstanding any other provision of law, the Board may exercise the authority granted it by the Community Development Credit Union Revolving Loan Fund Transfer Act (Public Law 99-609, sec. 1, Nov. 6, 1986, 100 Stat. 3475) subject only to the rules and regulations prescribed by the Board.".

National Institute of Building Sciences

PAYMENT TO THE NATIONAL INSTITUTE OF BUILDING SCIENCES

For payment to the National Institute of Building Sciences, $500,000.

National Science Foundation

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,715,000,000, to remain available until September 30, 1991 of which $900,000,000 shall not be available for obligation until April 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided*, That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $97,900,000 shall be available for program development and management in fiscal year 1990: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1990 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That none of the funds appropriated in this Act may be used directly or through grants, contracts or other award mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES-6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year: *Provided further,* That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

ACADEMIC RESEARCH FACILITIES

For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $20,000,000, to remain available until September 20, 1991: *Provided*, That funds made available under this heading shall not be available for obligation until September 1, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $74,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further*, That no funds in this account shall be used for the purchase of aircraft other than ones transferred from other Federal agencies: *Provided further*, That no funds in this or any other Act shall be used to acquire or lease a research vessel with ice-breaking capability built by a shipyard located in a foreign country if such a vessel of United States origin can be obtained at a cost no more than 50 per centum above that of the least expensive technically acceptable

Maritime affairs.

foreign vessel bid: *Provided further*, That, in determining the cost of such a vessel, such cost be increased by the amount of any subsidies or financing provided by a foreign government (or instrumentality thereof) to such vessel's construction: *Provided further*, That if the vessel contracted for pursuant to the foregoing is not available for the 1989-1990 austral summer Antarctic season, a vessel of any origin may be leased for a period of not to exceed 120 days for that season and each season thereafter until delivery of the new vessel: *Provided further*, That the preceding three provisos shall not apply to appropriated funds used for the lease of the vessel POLAR DUKE, nor for procurements covered by the GATT Agreement on Government Procurement: *Provided further*, That the vessel contracted for pursuant to the foregoing shall be of United States registry.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; improvement of environmental practices and enhancement of safety; hire of passenger motor vehicles; not to exceed $82,000,000, to remain available until expended: *Provided*, That funds made available under this heading shall not become available for obligation until September 30, 1990, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $210,000,000, to remain available until September 30, 1991: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $2,600,000, to remain available until September 30, 1991.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $27,260,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,313,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further*, That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated for in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Contracts.

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1990 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

Loans.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1990, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, such sums as may be necessary: *Provided*, That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

Reports.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations (including transfers) contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Contracts.
Public information.

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Contracts.
Reports.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

Wages.
Government organization and employees.

SEC. 515. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Government organization and employees.

SEC. 516. After January 1, 1990, and for the duration of fiscal year 1990, within the Department of Housing and Urban Development, the number of noncareer appointees to the Senior Executive Service shall not exceed 13 per centum of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1989.

SEC. 517. Notwithstanding any other provision of this Act, amounts otherwise provided by this Act for the following accounts and activities are reduced by the following amounts:

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

"Direct loan revolving fund", $15,000;

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATON

"Medical care", $115,339,000;
"Medical and prosthetic research", $3,348,000;
"Medical administration and miscellaneous operating expenses", $715,000;
"Grants to the Republic of the Philippines", $8,000;

DEPARTMENTAL ADMINISTRATION

"General operating expenses", $12,664,000;
"Office of Inspector General", $340,000;
"Construction, major projects", $6,514,000;
"Construction, minor projects ", $1,762,000;
"Parking garage revolving fund", $455,000;
"Grants for construction of State extended care facilities", $651,000;
"Grants for the construction of State veterans cemeteries", $68,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

"Annual contributions for assisted housing", $125,786,525;
"Assistance for the renewal of expiring section 8 subsidy contracts", $16,925,475;
"Rental rehabilitation grants", $2,015,000;
"Housing for the elderly or handicapped fund", $7,442,000;
"Congregate services", $93,000;
"Payments for operation of low-income housing projects", $27,832,000;
"Housing counseling assistance", $54,000;
"Federal Housing Administration Fund" (limitation on guaranteed loans), $1,162,500,000;
"Federal Housing Administration Fund" (temporary mortgage assistance payments), $1,373,000;
"Nonprofit sponsor assistance", $17,000;

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

"Guarantees of mortgage-backed securities", $1,286,500,000;

HOMELESS ASSISTANCE

"Emergency shelter grants program", $1,162,000;
"Transitional and supportive housing demonstration program", $2,015,000;
"Supplemental assistance for facilities to assist the homeless", $170,000;
"Section 8 moderate rehabilitation single room occupancy", $1,162,000;

COMMUNITY PLANNING AND DEVELOPMENT

"Community development grants", $46,500,000;

"Community development grants" (by transfer), $775,000;

"Community development grants" (limitation on guaranteed loans), $2,232,000;

"Urban homesteading", $205,000;

POLICY DEVELOPMENT AND RESEARCH

"Research and technology", $325,000;

FAIR HOUSING AND EQUAL OPPORTUNITY

"Fair housing activities", $198,000;

MANAGEMENT AND ADMINISTRATION

"Salaries and expenses", $11,447,000;

"Salaries and expenses" (by transfer, limitation on FHA corporate funds), $6,158,000;

"Office of Inspector General", $481,000;

"Office of Inspector General" (by transfer, limitation on FHA corporate funds), $102,000;

Independent Agencies

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $248,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $553,000;

COURT OF VETERANS APPEALS

"Salaries and expenses", $62,000;

DEPARTMENT OF DEFENSE--CIVIL

CEMETERIAL EXPENSES, ARMY

"Salaries and expenses", $195,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $13,556,000;

"Office of Inspector General", $492,000;

"Research and development", $3,743,000;

"Abatement, control, and compliance", $12,864,000;

"Buildings and facilities", $232,000;

"Hazardous Substance Superfund", $24,412,000;

"Hazardous Substance Superfund" (limitation on administrative expenses), $3,410,000;

"Leaking underground storage tank trust fund", $1,178,000;

"Leaking underground storage tank trust fund" (limitation on administrative expenses), $93,000;

"Construction grants", $31,775,000;

EXECUTIVE OFFICE OF THE PRESIDENT

"Council on Environmental Quality and Office of Environmental Quality", $23,000;
"National Space Council", $15,000;
"Office of Science and Technology Policy", $45,000;

FEDERAL EMERGENCY MANAGEMENT AGENCY

"Disaster relief", $1,550,000;
"Salaries and expenses", $2,209,000;
"Office of Inspector General", $41,000;
"Emergency Management Planning and Assistance", $4,267,000;
"Emergency Food and Shelter Program", $2,077,000;

GENERAL SERVICES ADMINISTRATION

"Consumer Information Center", $21,000;
"Consumer Information Center" (limitiation on administrative expenses), $32,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

"Office of Consumer Affairs", $29,000;

INTERAGENCY COUNCIL ON THE HOMELESS

"Salaries and expenses", $17,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and development", $84,174,000;
"Space flight, control and data communications", $71,526,000;
"Construction of facilities", $9,320,000;
"Research and program management", $30,724,000;
"Office of Inspector General", $136,000;

NATIONAL CREDIT UNION ADMINISTRATION

"Central liquidity facility" (limitation on direct loans), $9,300,000;
"Central liquidity facility" (limitation on administrative expenses, corporate funds), $13,000;

NATIONAL INSTITUTE OF BUILDING SCIENCES

"Payment to the National Institute of Building Sciences", $8,000;

NATIONAL SCIENCE FOUNDATION

"Research and related activities", $26,582,000;
"Research and related activities" (program development and management), $1,517,000;
"Academic research facilities", $310,000;
"United States Antarctic program activities", $1,147,000;
"United States Antarctic logistical support activities", $1,271,000;
"Science education activities", $3,255,000;
"Office of Inspector General", $40,000;

NEIGHBORHOOD REINVESTMENT CORPORATION

"Payment to the Neighborhood Reinvestment Corporation", $423,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $408,000.

In carrying out these reductions, each amount earmarked in this Act and not otherwise specified in this section shall be reduced in proportion to the overall reduction in the applicable account with the exception of the earmarking for personnel compensation and benefits costs carried in the Department of Veterans Affairs "Medical care" appropriating paragraph which shall not be reduced.

Government organization and employees.
5 USC 6302 note.

SEC. 518. The authority of the Department of Veterans Affairs in section 618 of Public Law 100-440 to operate a leave transfer program for employees subject to section 4108 of title 38, United States Code, is extended through December 31, 1989. The provisions of the final sentence of such section 618 shall apply to transferred leave that is unused as of December 31, 1989.

SEC. 519. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990".

Approved November 9, 1989.

LEGISLATIVE HISTORY—H.R. 2916:

HOUSE REPORTS: No. 101-150 (Comm. on Appropriations) and No. 101-297 (Comm. of Conference).
SENATE REPORTS: No. 101-128 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  July 20, considered and passed House.
  Sept. 18, 19, 28, considered and passed Senate, amended.
  Oct. 24, 25, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
  Oct. 27, Senate agreed to conference report; concurred in certain House amendments and disagreed to another.
  Oct. 31, House receded and concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 1989:
  Nov. 9, Presidential statement.

○

Public Law 101-145
101st Congress

Joint Resolution

To designate November 1989 as "National Diabetes Month".

Nov. 9, 1989
[S.J. Res. 131]

Whereas diabetes is a leading cause of death by disease in the United States;

Whereas diabetes affects over eleven million Americans, of whom almost six million are not aware of their illness;

Whereas diabetes costs the Nation $20,400,000,000 annually in health care costs, disability payments, and increased mortality due to diabetes;

Whereas up to 85 per centum of all cases of noninsulin dependent diabetes may be prevented through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among black Americans, Hispanic Americans, Native Americans, and women; and

Whereas diabetes is a leading cause of new blindness, kidney disease, heart disease, strokes, birth defects, and foot and leg amputations, all of which can be reduced by better public understanding and awareness of diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1989 is designated as "National Diabetes Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved November 9, 1989.

LEGISLATIVE HISTORY—S.J. Res. 131:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 27, considered and passed Senate.
Oct. 31, considered and passed House.

○

Public Law 101-146
101st Congress

Joint Resolution

Nov. 9, 1989
[S.J. Res. 209]

To designate November 11, 1989 as "Washington Centennial Day".

Whereas on November 11, 1889, at 5 o'clock and twenty-seven minutes, President Benjamin Harrison signed a proclamation declaring Washington a State;

Whereas Washington is known as the Evergreen State;

Whereas Washington State has become a national leader in aviation, computer software, education, health care, commerce, and trade;

Whereas Washington State's beautiful mountains, trees, waters, and fields are appreciated and preserved; and

Whereas on November 11, 1989, Washington State will see the dawn of a new century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 11, 1989, is designated as "Washington Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Washington to the United States of America over the past century.

Approved November 9, 1989.

LEGISLATIVE HISTORY—S.J. Res. 209:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 29, considered and passed Senate.
Oct. 31, considered and passed House.

○

Public Law 101-147
101st Congress

An Act

To amend the Child Nutrition Act of 1966 and the National School Lunch Act to revise and extend certain authorities contained in such Acts, and for other purposes.

Nov. 10, 1989
[H.R. 24]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

Child Nutrition and WIC Reauthorization Act of 1989.
49 USC 1751 note.

(a) SHORT TITLE.—This Act may be cited as the "Child Nutrition and WIC Reauthorization Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Effective date.

TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966

PART A—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT

Sec. 101. Types of milk to be included in school lunches.
Sec. 102. Extension of summer food service program for children.
Sec. 103. Extension of commodity distribution program.
Sec. 104. Repeal of National Advisory Council.
Sec. 105. Child care food program.
Sec. 106. Meal supplements for children in afterschool care.
Sec. 107. Pilot projects.
Sec. 108. Reduction of paperwork.
Sec. 109. Training, technical assistance, and food service management institute.
Sec. 110. Compliance and accountability.
Sec. 111. Information on income eligibility.
Sec. 112. Nutrition guidance for child nutrition programs.

PART B—PROGRAMS UNDER THE CHILD NUTRITION ACT OF 1966

Sec. 121. Expansion of school breakfast program.
Sec. 122. State administrative expenses.
Sec. 123. Additional activities and requirements with respect to special supplemental food program for women, infants, and children.
Sec. 124. Nutrition education and training.

PART C—CROSS-PROGRAM PROVISION

Sec. 131. Determination of total commodity assistance for the school lunch and child care food programs.

TITLE II—PAPERWORK REDUCTION AMENDMENTS

PART A—REDUCTION OF PAPERWORK UNDER THE NATIONAL SCHOOL LUNCH ACT

Sec. 201. Permanency of State-local agreements for carrying out the school lunch program.
Sec. 202. Income documentation requirements.
Sec. 203. Reports to State educational agencies.
Sec. 204. 2-year applications under child care food program.
Sec. 205. Pilot projects for alternative counting methods.

PART B—REDUCTION OF PAPERWORK UNDER THE CHILD NUTRITION ACT OF 1966

Sec. 211. State-local agreements for carrying out the special milk program.

Sec. 212. Permanency of State-local agreements for carrying out the school breakfast program.
Sec. 213. Paperwork reduction requirements under the special supplemental food program for women, infants, and children.
Sec. 214. Updating of plans for nutrition education and training.

TITLE III—TECHNICAL AMENDMENTS

PART A—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

Sec. 301. Apportionments to States.
Sec. 302. Direct Federal expenditures.
Sec. 303. Payments to States.
Sec. 304. State disbursement to schools.
Sec. 305. Nutritional and other program requirements.
Sec. 306. Miscellaneous provisions and definitions.
Sec. 307. Summer food service program for children.
Sec. 308. Repeal of obsolete provision relating to temporary emergency assistance.
Sec. 309. Election to receive cash payments.
Sec. 310. Child care food program.
Sec. 311. Pilot projects.
Sec. 312. General amendments.

PART B—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

Sec. 321. Special milk program authorization.
Sec. 322. School breakfast program authorization.
Sec. 323. Regulations.
Sec. 324. Appropriations for administrative expense.
Sec. 325. Miscellaneous provisions and definitions.
Sec. 326. Special supplemental food program.
Sec. 327. Nutrition education and training.

42 USC 1751 note.

SEC. 2. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of the enactment of this Act.

TITLE I—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966

PART A—PROGRAMS UNDER THE NATIONAL SCHOOL LUNCH ACT

SEC. 101. TYPES OF MILK TO BE INCLUDED IN SCHOOL LUNCHES.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—Section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)), as similarly amended first by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4202 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) GENERAL AUTHORITY.—Paragraph (2) of section 9(a) of the National School Lunch Act (as amended by subsection (a) of this section) (42 U.S.C. 1758(a)) is amended to read as follows:

"(2) Lunches served by schools participating in the school lunch program under this Act shall offer students fluid whole milk and fluid unflavored lowfat milk.".

SEC. 102. EXTENSION OF SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)—

(A) by amending subparagraph (C) of paragraph (3) to read as follows:

"(C)(i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist; Disadvantaged persons.

"(ii) conduct a regularly scheduled food service primarily for homeless children; or Homeless persons.

"(iii) qualify as camps; and";

(B) in paragraph (4)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(iii) by inserting after subparagraph (E) the following new subparagraph:

"(F) private nonprofit organizations eligible under paragraph (7).";

(C) in paragraph (7)—

(i) by amending subparagraph (A) to read as follows:

"(A) Except as provided in subparagraph (C), private nonprofit organizations, as defined in subparagraph (B) (other than organizations eligible under paragraph (1)), shall be eligible for the program under the same terms and conditions as other service institutions.";

(ii) in subparagraph (B)—

(I) by amending clause (i) to read as follows:

"(i)(I) serve a total of not more than 2,500 children per day at not more than 5 sites in any urban area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site); or Urban areas.

"(II) serve a total of not more than 2,500 children per day at not more than 20 sites in any rural area, with not more than 300 children being served at any 1 site (or, with a waiver granted by the State under standards developed by the Secretary, not more than 500 children being served at any 1 site);"; Rural areas.

(II) in clause (ii), by inserting "or a school participating in the school lunch program under this Act" after "university)"; and

(III) in clause (v), by inserting "or families" after "children"; and

(iii) by adding at the end the following new subparagraph:

"(C)(i) Except as provided in clause (ii), no private nonprofit organization (other than organizations eligible under paragraph (1)) may participate in the program in an area where a school food authority or a local, municipal, or county government participated in the program before such organization applied to participate until the expiration of the 1-year period beginning on the date that such school food authority or local, municipal, or county government terminated its participation in the program.

"(ii) Clause (i) shall not apply if the appropriate State agency or regional office of the Department of Agriculture (whichever administers the program in the area concerned), after consultation with the school food authority or local, municipal, or county government concerned, determines that such school food authority or local, municipal, or county government would have discontinued its participation in the program regardless of whether a private nonprofit organization was available to participate in the program in such area.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

Disadvantaged persons.

"(2)(A) Notwithstanding any other provision of this Act, any higher education institution that receives reimbursements under the program for meals and meal supplements served to low-income children under the National Youth Sports Program is eligible to receive reimbursements for not more than 2 meals or 1 meal and 1 meal supplement per day for not more than 30 days for each child participating in a National Youth Sports Program operated by such institution during the months other than May through September.

State and local governments.

The program under this paragraph shall be administered within the State by the same State agency that administers the program during the months of May through September.

"(B) Children participating in National Youth Sports Programs operated by higher education institutions, and such higher education institutions, shall be eligible to participate in the program under this paragraph without application.

"(C) Higher education institutions shall be reimbursed for meals and meal supplements served under this paragraph—

"(i) in the case of lunches and suppers, at the same rates as the payment rates established for free lunches under section 11; and

"(ii) in the case of breakfasts or meal supplements, at the same rates as the severe need payment rates established for free breakfasts under section 4 of the Child Nutrition Act of 1966.

"(D)(i) Meals for which a higher education institution is reimbursed under this paragraph shall fulfill the minimum nutritional requirements and meal patterns prescribed by the Secretary—

"(I) for meals served under the school lunch program under this Act, in the case of reimbursement for lunches or suppers; and

"(II) for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966, in the case of reimbursement for breakfasts.

"(ii) The Secretary may modify the minimum nutritional requirements and meal patterns prescribed by the Secretary for meals served under the school breakfast program under section 4 of the Child Nutrition Act of 1966 for application to meal supplements for which a higher education institution is reimbursed under this paragraph.

Regulations.

"(E) The Secretary shall issue regulations governing the implementation, operation, and monitoring of programs receiving assistance under this paragraph that, to the maximum extent practicable, are comparable to those established for higher education institutions participating in the National Youth Sports Program and receiving reimbursements under the program for the months of May through September.";

(3) in the first sentence of subsection (l)(1), by inserting "(other than private nonprofit organizations eligible under subsection (a)(7))" after "Service institutions";

(4) by redesignating subsection (p) as subsection (r);

(5) by inserting after subsection (o) the following new subsections:

State and local governments.

"(p) During the fiscal years 1990 and 1991, the Secretary and the States shall carry out a program to disseminate to potentially eligible private nonprofit organizations information concerning the amendments made by the Child Nutrition and WIC Reauthorization Act of 1989 regarding the eligibility under subsection (a)(7) of private nonprofit organizations for the program established under this section.

State and local governments.

"(q)(1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

"(2) Application forms or other printed materials provided by the Secretary or the States to persons who intend to apply to participate as private nonprofit organizations shall contain a warning in bold lettering explaining, at a minimum—

"(A) the criminal provisions and penalties established by subsection (o); and

"(B) the procedures for termination of participation in the program as established by regulations.

"(3) The Secretary shall require each State to establish and implement an ongoing training and technical assistance program for private nonprofit organizations that provides information on program requirements, procedures, and accountability. The Secretary shall provide assistance to State agencies regarding the development of such training and technical assistance programs.

"(4) In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out paragraphs (1) and (3) of this subsection not more than ½ of 1 percent of amounts appropriated for purposes of carrying out this section.

"(5) For the purposes of this subsection, the term 'private nonprofit organization' has the meaning given such term in subsection (a)(7)(B)."; and

(6) in subsection (r) (as redesignated by paragraph (4) of this subsection), by striking "For" and all that follows through "1989," and inserting "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,".

(b) IMPLEMENTATION.—

Regulations.
Effective dates.
42 USC 1761 note.

(1) IN GENERAL.—Not later than February 1, 1990, the Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (3), (4), and (5) of subsection (a). Notwithstanding the provisions of section 553 of title 5, United States Code, the Secretary of Agriculture may issue such regulations without providing notice or an opportunity for public comment.

(2) NATIONAL YOUTH SPORTS PROGRAM.—(A) Subparagraphs (A), (B), (C), and (D)(i) of section 13(c)(2) of the National School Lunch Act (as added by subsection (a)(2)(B) of this section) shall be effective as of October 1, 1989.

(B) Not later than February 1, 1990, the Secretary of Agriculture shall—

(i) issue final regulations to implement subparagraph (D)(ii) of section 13(c)(2) of the National School Lunch Act (as added by subsection (a)(2)(B) of this section); and

(ii) issue final regulations under subparagraph (E) of such section.

(3) EXTENSION OF AUTHORIZATION.—The amendments made by subsection (a)(6) shall be effective as of October 1, 1989.

SEC. 103. EXTENSION OF COMMODITY DISTRIBUTION PROGRAM.

(a) GENERAL AUTHORITY.—Subsection (a) of section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by striking "1989" and inserting "1994".

(b) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) IN GENERAL.—Section 14(g) of the National School Lunch Act (42 U.S.C. 1762a(g)), as similarly added first by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-368), later by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-371), and later by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 2 of Public Law 100-356, is amended to read as if only the amendment made by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

(2) COMPUTATION OF CASH COMPENSATION TO DISTRICTS UNDER PUBLIC LAW 100-356.—(A) Paragraph (3) of section 14(g) of the National School Lunch Act (as amended by paragraph (1) of this subsection) (42 U.S.C. 1762a(g)) is amended—

(i) by adding at the end of subparagraph (A) the following new sentences: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this Act for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 6(e) of this Act; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988."; and

(ii) in subparagraph (B), by striking "$50,000" and inserting "such sums as may be necessary".

Effective date.
42 USC 1762a note.

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on June 28, 1988.

(c) COMPUTATION OF CASH COMPENSATION TO DISTRICTS.—Section 14(g)(3)(A) of the National School Lunch Act (as amended by subsection (b) of this section) (42 U.S.C. 1762a(g)(3)(A)) is amended by striking the second sentence and all that follows and inserting the following: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the difference between the value of bonus commodity assistance received by such school district under this Act for the school year ending June 30, 1983, and the value of bonus commodities received by such school district under this Act for the school year ending June 30, 1982. For the purposes of this subparagraph—

"(i) the term 'bonus commodities' means commodities provided in addition to commodities provided pursuant to section 6(e); and

"(ii) the term 'bonus commodity assistance' means assistance, in the form of bonus commodities, cash, or commodity letters of credit, provided in addition to assistance provided pursuant to section 6(e).

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than 1 year after the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989. The Secretary shall, during the 45-day period beginning on October 1, 1990, complete action on any claim submitted under this subparagraph.".

SEC. 104. REPEAL OF NATIONAL ADVISORY COUNCIL.

Section 15 of the National School Lunch Act (42 U.S.C. 1763) is repealed.

SEC. 105. CHILD CARE FOOD PROGRAM.

Disadvantaged persons.

(a) AMENDMENT TO HEADING.—The heading for section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended to read as follows:

"CHILD AND ADULT CARE FOOD PROGRAM".

(b) OTHER AMENDMENTS TO SECTION 17.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) in subparagraph (C) of subsection (f)(3)—

(A) in the first sentence, by inserting before the period the following: "and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural areas";

(B) in the second sentence, by inserting "and expansion funds" after "start-up funds";

(C) in the third sentence, by inserting "and expansion funds" after "Start-up funds";

(D) in the fourth sentence, by inserting "and expansion funds" after "start-up funds";

(E) in the fifth sentence, by inserting "and expansion funds" after "start-up funds"; and

(F) by inserting after the first sentence the following new sentence: "Institutions that have received start-up funds may also apply at a later date for expansion funds.";

(2) in subsection (l)—

(A) by inserting "(1)" after "(l)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall conduct demonstration projects to test innovative approaches to remove or reduce barriers to participation in the program established under this section regarding family or group day care homes that operate in low-income areas or that primarily serve low-income children. As part of such demonstration projects, the Secretary may provide grants to, or otherwise modify administrative reimbursement rates for, family or group day care home sponsoring organizations.

State and local governments. Day care.

"(3) The Secretary and the States shall provide training and technical assistance to assist family and group day care home sponsoring organizations in reaching low-income children.";

(3) in subsection (p)—

(A) by adding at the end of paragraph (1) the following: "Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants."; and

(B) by adding at the end the following new paragraph:

"(6) The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section."; and

State and local governments. Day care.

(4) by adding at the end the following new subsection:

"(q)(1) From amounts appropriated or otherwise made available for purposes of carrying out this section, the Secretary shall carry out 2 statewide demonstration projects under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this section. An organization may participate in a demonstration project described in the preceding sentence if—

"(A) at least 25 percent of the children served by such organization meet the income eligibility criteria established under section 9(b) for free or reduced price meals; and

"(B) as a result of the participation of the organization in the project—

"(i) the nutritional content or quality of meals and snacks served to children under the care of such organization will be improved; or

"(ii) fees charged by such organization for the care of the children described in subparagraph (A) will be lowered.

"(2) Under each such project, the Secretary shall examine—

"(A) the budgetary impact of the change in eligibility being tested;

"(B) the extent to which, as a result of such change, additional low-income children can be reached; and

"(C) which outreach methods are most effective.

"(3) The Secretary shall choose to conduct demonstration projects under this subsection—

"(A) 1 State that—

"(i) has a history of participation of for-profit organizations in the child care food program;

"(ii) allocates a significant proportion of the amounts it receives for child care under title XX of the Social Security Act in a manner that allows low-income parents to choose the type of child care their children will receive;

"(iii) has other funding mechanisms that support parental choice for child care;

"(iv) has a large, State-regulated for-profit child care industry that serves low-income children; and

"(v) has large sponsors of family or group day care homes that have a history of recruiting and sponsoring for-profit child care centers in the child care food program; and

"(B) 1 State in which—

"(i) the majority of children for whom child care arrangements are made are being cared for in center-based child care facilities;

"(ii) for-profit child care centers and preschools are located throughout the State and serve both rural and urban populations;

"(iii) at least ⅓ of the licensed child care centers and preschools operate as for-profit facilities;

"(iv) all licensed facilities are subject to identical nutritional requirements for food service that are similar to those required under the child care food program; and

"(v) less than 1 percent of child care centers participating in the child care food program receive assistance under title XX of the Social Security Act.

"(4) Such project shall—

"(A) commence not earlier than May 1, 1990, and not later than June 30, 1990; and

"(B) terminate on September 30, 1992.".

(c) Family or Group Day Care Home Demonstration Project.—

(1) In general.—Section 503(e) of the Hunger Prevention Act of 1988 (42 U.S.C. 1766 note) is amended by striking "not later than 12 months after the date on which the project was fully initiated" and inserting "September 30, 1990".

42 USC 1766 note.

(2) Effective date.—The amendment made by paragraph (1) shall be effective as of October 1, 1989. The Secretary of Agriculture shall reimburse day care institutions and family or group day care sponsoring organizations participating in the demonstration project authorized under section 503(a) of the Hunger Prevention Act of 1988 (42 U.S.C. 1766 note) as if this Act was enacted before such date.

42 USC 1766 note.

(d) Implementation.—

(1) Expansion; demonstration project.—The Secretary of Agriculture shall implement the amendments made by subsections (b)(1) and (b)(2) not later than July 1, 1990.

Regulations.

(2) Dietary requirements for adult day care food program.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b)(3).

SEC. 106. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

(a) General Authority.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting after section 17 the following new section:

42 USC 1766a.

"SEC. 17A. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

"(a) General Authority.—

"(1) Grants to states.—The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements to children in afterschool care in eligible elementary and secondary schools.

"(2) ELIGIBLE SCHOOLS.—For the purposes of this section, the term 'eligible elementary and secondary schools' means schools that—

"(A) operate school lunch programs under this Act;

"(B) sponsor afterschool care programs; and

"(C) are participating in the child care food program under section 17 on May 15, 1989.

"(b) ELIGIBLE CHILDREN.—Reimbursement may be provided under this section only for supplements served to children—

"(1) who are not more than 12 years of age; or

"(2) in the case of children of migrant workers or children with handicaps, who are not more than 15 years of age.

"(c) REIMBURSEMENT.—For the purposes of this section, the national average payment rate for supplements shall be equal to those established under section 17(c)(3) (as adjusted pursuant to section 11(a)(3)).

"(d) CONTENTS OF SUPPLEMENTS.—The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this Act shall apply to the content of meal supplements served under programs operated with assistance under this section.".

Regulations.
42 USC 1766a note.

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 17A of the National School Lunch Act (as added by subsection (a) of this section).

SEC. 107. PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended—

(1) in paragraph (1) of subsection (e)—

(A) by striking "for the duration beginning July 1, 1987, and ending December 31, 1990" and inserting "beginning July 1, 1987, and ending September 30, 1992"; and

Contracts.

(B) by adding at the end the following new sentence: "The Secretary, directly or through contract, shall administer the project under this subsection."; and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall conduct demonstration projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

Contracts.

"(2)(A) The Secretary shall enter into agreements with private nonprofit organizations to participate in the projects under this subsection.

"(B) The Secretary shall establish eligibility requirements for private nonprofit organizations that desire to participate in the projects under this subsection. Such requirements shall include the following:

Homeless persons.

"(i) Each such organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.

Safety.

"(ii) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

"(3)(A) Projects under this subsection shall use the same meal patterns and shall receive reimbursement payments for meals and supplements at the same rates provided to child care centers participating in the child care food program under section 17 for free meals and supplements.

"(B) Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application.

Homeless persons.

"(4) For purposes of this subsection, the term 'emergency shelter' has the meaning given such term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act.

"(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection from amounts appropriated for purposes of carrying out this Act not less than $50,000 in the fiscal year 1990 and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994, in addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966. Any amounts expended under the preceding sentence shall be used solely to provide grants on an annual basis to private nonprofit organizations for the conduct of projects under this subsection.

Grants.

"(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.

"(6) At least 1 project under this subsection shall commence operations not later than September 30, 1990, and all such projects shall cease to operate not later than September 30, 1994.".

SEC. 108. REDUCTION OF PAPERWORK.

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is amended to read as follows:

"SEC. 19. REDUCTION OF PAPERWORK.

"(a) In General.—In carrying out functions under this Act and the Child Nutrition Act of 1966, the Secretary shall, to the maximum extent possible, reduce the paperwork required of State and local educational agencies, schools, and other agencies participating in nutrition programs assisted under such Acts in connection with such participation.

State and local governments.

"(b) Consultation; Public Comment.—In carrying out the requirements of subsection (a), the Secretary shall—

"(1) consult with State and local administrators of programs assisted under this Act or the Child Nutrition Act of 1966;

"(2) convene at least 1 meeting of the administrators described in paragraph (1) not later than the expiration of the 10-month period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989; and

"(3) obtain suggestions from members of the public with respect to reduction of paperwork.

"(c) Report.—Before the expiration of the 1-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, the Secretary shall report to the Congress concerning the extent to which a reduction has occurred in the amount of paperwork described in subsection (a). Such report shall be developed in consultation with the administrators described in subsection (b)(1).".

SEC. 109. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

42 USC 1769b-1.

"SEC. 21. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

"(a) GENERAL AUTHORITY.—The Secretary—

"(1) from amounts appropriated pursuant to subsection (e)(1), shall conduct training activities and provide technical assistance to improve the skills of individuals employed in—

"(A) food service programs carried out with assistance under this Act;

"(B) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966; and

"(C) as appropriate, other federally assisted feeding programs; and

"(2) from amounts appropriated pursuant to subsection (e)(2), is authorized to establish and maintain a food service management institute.

"(b) MINIMUM REQUIREMENTS.—The activities conducted and assistance provided as required by subsection (a)(1) shall at least include activities and assistance with respect to—

"(1) menu planning;

"(2) implementation of regulations and appropriate guidelines; and

"(3) compliance with program requirements and accountability for program operations.

"(c) DUTIES OF FOOD SERVICE MANAGEMENT INSTITUTE.—

"(1) IN GENERAL.—Any food service management institute established as authorized by subsection (a)(2) shall carry out activities to improve the general operation and quality of—

"(A) food service programs assisted under this Act;

"(B) school breakfast programs assisted under section 4 of the Child Nutrition Act of 1966; and

"(C) as appropriate, other federally assisted feeding programs.

"(2) REQUIRED ACTIVITIES.—Activities carried out under paragraph (1) shall include—

"(A) conducting research necessary to assist schools and other organizations that participate in such programs in providing high quality, nutritious, cost-effective meal service to the children served;

"(B) providing training and technical assistance with respect to—

"(i) efficient use of physical resources;

"(ii) financial management;

"(iii) efficient use of computers;

"(iv) procurement;

"(v) sanitation;

"(vi) safety;

"(vii) food handling;

"(viii) meal planning and related nutrition activities; and

"(ix) other appropriate activities;

"(C) establishing a national network of trained professionals to present training programs and workshops for food service personnel;

"(D) developing training materials for use in the programs and workshops described in subparagraph (C); and

"(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs, including activities carried out with assistance provided under section 19 of the Child Nutrition Act of 1966.

"(d) COORDINATION.—The Secretary shall coordinate activities carried out and assistance provided as required by subsection (b) with activities carried out by any food service management institute established as authorized by subsection (a)(2).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) $3,000,000 for the fiscal year 1990, $2,000,000 for the fiscal year 1991, and $1,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of carrying out subsection (a)(1); and

"(2) $1,000,000 for the fiscal year 1990 and $4,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994 for purposes of carrying out subsection (a)(2).".

SEC. 110. COMPLIANCE AND ACCOUNTABILITY.

42 USC 1769c.

(a) GENERAL AUTHORITY.—The National School Lunch Act (as amended by section 109 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 22. COMPLIANCE AND ACCOUNTABILITY.

"(a) UNIFIED ACCOUNTABILITY SYSTEM.—There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this Act comply with the provisions of this Act. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5, United States Code.

Regulations.

"(b) FUNCTIONS OF SYSTEM.—

State and local governments.

"(1) IN GENERAL.—Under the system described in subsection (a), each State educational agency shall—

"(A) require that local food service authorities comply with the provisions of this Act; and

"(B) ensure such compliance through reasonable audits and supervisory assistance reviews.

"(2) MINIMIZATION OF ADDITIONAL DUTIES.—Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

"(c) ROLE OF SECRETARY.—In carrying out this section, the Secretary shall—

"(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and

"(2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this Act.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out the compliance and accountability activities referred to in subsection (c) $3,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 22

Regulations.
42 USC 1769c note.

of the National School Lunch Act (as added by subsection (a) of this section).

SEC. 111. INFORMATION ON INCOME ELIGIBILITY.

The National School Lunch Act (as amended by sections 109 and 110 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

42 USC 1769d.

"SEC. 23. INFORMATION ON INCOME ELIGIBILITY.

State and local governments.

"(a) Information To Be Provided.—In the case of each program established under this Act and the Child Nutrition Act of 1966, the Secretary shall provide to each appropriate State agency—

"(1) information concerning what types of income are counted in determining the eligibility of children to receive free or reduced price meals under the program in which such State, State agency, local agency, or other entity is participating, particularly with respect to how net self-employment income is determined for family day care providers participating in the child care food program (including the treatment of reimbursements provided under this section); and

"(2) information concerning the consideration of applications for free or reduced price meals from households in which the head of the household is less than 21 years old.

"(b) Time for Provision of Information.—The Secretary shall provide the information required by subsection (a) before the expiration of the 60-day period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989 and shall as necessary provide revisions of such information.

"(c) Form Simplification.—Not later than July 1, 1990, the Secretary shall—

"(1) review the model application forms for programs under this Act and programs under the Child Nutrition Act of 1966; and

"(2) simplify the format and instructions for such forms so that the forms are easily understandable by the individuals who must complete them.".

SEC. 112. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

The National School Lunch Act (as amended by sections 109, 110, and 111 of this Act) (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

42 USC 1769e.

"SEC. 24. NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.

"(a) Nutrition Guidance Publication.—

"(1) Development.—The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly develop and approve a publication to be entitled 'Nutrition Guidance for Child Nutrition Programs' (hereafter in this section referred to as the 'publication'). The Secretary shall develop the publication as required by the preceding sentence before the expiration of the 2-year period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989.

"(2) Time for distribution.—Before the expiration of the 6-month period beginning on the date that the development of the publication is completed, the Secretary shall distribute the publication to school food service authorities and institutions and organizations participating in covered programs.

"(b) Revision of Menu Planning Guides.—The Secretary shall, as necessary, revise the menu planning guides for each covered program to include recommendations for the implementation of nutrition guidance described in the publication.

"(c) Application of Nutrition Guidance to Meal Programs.—In carrying out any covered program, school food authorities and other organizations and institutions participating in such program shall apply the nutrition guidance described in the publication when preparing meals and meal supplements served under such program.

"(d) Implementation.—In carrying out covered programs, the Secretary shall ensure that meals and meal supplements served under such programs are consistent with the nutrition guidance described in the publication.

"(e) Revision of Publication.—The Secretary and the Secretary of Health and Human Services may jointly update and approve the publication as warranted by scientific evidence.

"(f) Covered Programs.—For the purposes of this section, the term 'covered program' includes—

"(1) the school lunch program under this Act;

"(2) the summer food service program for children under section 13;

"(3) the child care food program under section 17; and

"(4) the school breakfast program under section 4 of the Child Nutrition Act of 1966.".

PART B—PROGRAMS UNDER THE CHILD NUTRITION ACT OF 1966

SEC. 121. EXPANSION OF SCHOOL BREAKFAST PROGRAM.

42 USC 1773.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1733) is amended—

(1) in the first sentence of subsection (a), by inserting before the period the following: "and to carry out the provisions of subsection (g)";

(2) in subsection (f)—

(A) by inserting before the subsection the following new heading:

"EXPANSION OF PROGRAM";

(B) by inserting "(1)" after "(f)";

(C) by striking the last sentence; and

(D) by adding at the end the following new paragraph:

State and local governments.

"(2)(A) Each State educational agency shall—

"(i) provide information to school boards and public officials concerning the benefits and availability of the school breakfast program; and

"(ii) select each year, for additional informational efforts concerning the program, schools in the State—

Disadvantaged persons.

"(I) in which a substantial portion of school enrollment consists of children from low-income families; and

"(II) that do not participate in the school breakfast program.

Reports.

"(B) Not later than October 1, 1993, the Secretary shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program."; and

(3) by adding at the end the following new subsection:

"STARTUP COSTS

State and local governments.

"(g)(1) The Secretary shall make payments, totalling not less than $3,000,000 in the fiscal year 1990 and $5,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994, on a competitive basis to State educational agencies in a substantial number of States for distribution to eligible schools to assist such schools with nonrecurring expenses incurred in initiating a school breakfast program under this section. Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b).

"(2)(A) In making payments under this subsection in any fiscal year, the Secretary shall provide a preference to State educational agencies that—

"(i) submit to the Secretary a plan to expand school breakfast programs conducted in the State, including a description of—

"(I) the manner in which the agency will provide technical assistance and funding to schools in the State to expand such programs;

"(II) a State law that requires the expansion of such programs during such year; or

"(III) significant public or private resources that have been assembled to carry out the expansion of such programs during such year; or

"(ii) either—

"(I) do not have a breakfast program available to a large number of low-income children in the State; or

"(II) serve a low percentage of free and reduced price breakfasts under the school breakfast program when the number of such breakfasts is measured as a percentage of the number of free and reduced price lunches served in such State under the school lunch program carried out under the National School Lunch Act.

"(B) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by such agency within a reasonable period.

"(C) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(3) Each State agency, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools that demonstrate the greatest need for a breakfast program.

"(4) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of payments received under this subsection.

"(5) As used in this subsection, the term 'eligible school' means a school—

"(A) attended by children a significant percentage of whom are members of low-income families; and

"(B) that agrees to operate the breakfast program established with such assistance for a period of not less than 3 years.

Reports.

"(6) Not later than December 31, 1993, the Secretary shall submit a report to the Committee on Education and Labor of the House of

Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the efforts of the Secretary and the States to increase the participation of schools in the program.".

SEC. 122. STATE ADMINISTRATIVE EXPENSES.

(a) In General.—Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting after the first sentence the following new sentence: "If an agency in the State other than the State educational agency administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program, except as provided in paragraph (5).";

(B) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively;

(C) by inserting after paragraph (4) the following new paragraph:

"(5)(A) Not more than 25 percent of the amounts made available to each State under this section for the fiscal year 1991 and 20 percent of the amounts made available to each State under this section for the fiscal year 1992 and for each succeeding fiscal year may remain available for obligation or expenditure in the fiscal year succeeding the fiscal year for which such amounts were appropriated.

"(B)(i) In the fiscal year 1991 and each succeeding fiscal year, any amounts appropriated that are not obligated or expended during such fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary. From any amounts returned to the Secretary under the preceding sentence, the Secretary shall—

"(I) first allocate, for the purpose of providing grants on an annual basis to private nonprofit organizations participating in projects under section 18(f) of the National School Lunch Act, not less than $3,000,000 in the fiscal year 1992 and not less than $4,000,000 in each of the fiscal years 1993 and 1994; and

"(II) then allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for such amounts.

"(ii) In any fiscal year in which amounts returned to the Secretary under the first sentence of clause (i) are insufficient to provide the complete allocation described in clause (i)(I), all of such amounts shall be allocated for the purpose described in clause (i)(I)."; and

(D) by adding at the end the following new paragraph:

"(8) In the fiscal year 1991 and each succeeding fiscal year, in accordance with regulations issued by the Secretary, each State shall ensure that the State agency administering the distribution of commodities under programs authorized under this Act and under the National School Lunch Act is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this Act and under the National School Lunch Act.";

(2) in subsection (g), by inserting before the period at the end the following: ", and that agree to participate fully in any studies authorized by the Secretary"; and

(3) in subsection (h), by striking "For" and all that follows through "1989," and inserting "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,".

Effective date.
42 USC 1776 note.

(b) IMPLEMENTATION.—The amendment made by subsection (a)(1)(A) shall be effective as of October 1, 1989.

State and local governments.

SEC. 123. ADDITIONAL ACTIVITIES AND REQUIREMENTS WITH RESPECT TO SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(17) 'Competitive bidding' means a procurement process under which the State agency selects the single source offering the lowest price, as determined by the submission of sealed bids, for the product for which bids are sought.";

(2) in subsection (d), by amending paragraph (2) to read as follows:

"(2)(A) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of individuals for participation in the program. Any individual at nutritional risk shall be eligible for the program under this section only if such individual—

"(i) is a member of a family with an income that is less than the maximum income limit prescribed under section 9(b) of the National School Lunch Act for free and reduced price meals;

"(ii)(I) receives food stamps under the Food Stamp Act of 1977; or

"(II) is a member of a family that receives assistance under the program for aid to families with dependent children established under part A of title IV of the Social Security Act; or

"(iii)(I) receives medical assistance under title XIX of the Social Security Act; or

"(II) is a member of a family in which a pregnant woman or an infant receives such assistance.

"(B) For the purpose of determining income eligibility under this section, any State agency may choose to exclude from income any basic allowance for quarters received by military service personnel residing off military installations.";

(3) in subsection (e)—

(A) by striking the last 3 sentences of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following new paragraph:

Education.

"(2) The Secretary shall prescribe standards to ensure that adequate nutrition education services and breastfeeding promotion and support are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education and breastfeeding promotion and support shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education and breastfeeding promotion and support they have received."; and

(D) by adding at the end the following new paragraphs:

"(3) The State agency shall—

Food stamps.

"(A) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act, and the child support enforcement program under part D of title IV of the Social Security Act is provided on at least 1 occasion to each adult participant in and each applicant for the program;

"(B) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (in this section referred to as the 'medicaid program'); and

Medicaid.

"(C) provide to individuals applying for the program under this section, or reapplying at the end of their certification period, written information about the medicaid program and referral to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program.

Public information. Records. Drugs and drug abuse.

"(4) The State agency shall ensure that each local agency shall maintain and make available for distribution a list of local resources for substance abuse counseling and treatment.";

(4) in subsection (f)—

(A) in subparagraph (C) of paragraph (1)—

(i) in clause (iii)—

(I) by inserting "local programs for breastfeeding promotion," after "immunization programs,"; and

(II) by inserting "and treatment" after "alcohol and drug abuse counseling";

(ii) by amending clause (vii) to read as follows:

"(vii) a plan to provide program benefits under this section to eligible individuals most in need of the benefits and to provide eligible individuals not participating in the program with information on the program, the eligibility criteria for the program, and how to apply for the program, with emphasis on reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;";

(iii) by redesignating clauses (viii) and (ix) as clauses (xii) and (xiii), respectively; and

(iv) by inserting after clause (vii) the following new clauses:

"(viii) a plan to provide program benefits under this section to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally;

"(ix) if the State agency chooses to provide program benefits under this section to some or all eligible individuals who are incarcerated in prisons or juvenile detention facilities that do not receive Federal assistance under any program specifically established to assist pregnant women regarding their nutrition and health needs, a plan for the provision of such benefits to, and to meet the special nutrition education needs of, such individuals, which may include—

"(I) providing supplemental foods to such individuals that are different from those provided to other participants in the program under this section;

"(II) providing such foods to such individuals in a different manner than to other participants in the program under this section in order to meet the special needs of such individuals; and

"(III) the development of nutrition education materials appropriate for the special needs of such individuals;

Rural areas.

"(x) a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas, by addressing their special needs through the adoption or revision of procedures and practices to minimize the time participants and applicants must spend away from work and the distances that participants and applicants must travel, including appointment scheduling, adjustment of clinic hours, clinic locations, or mailing of multiple vouchers;

Education.

"(xi) a plan to provide nutrition education and promote breastfeeding;";

(B) by adding at the end of paragraph (8) the following new subparagraph:

Health care facilities.

"(D) Each local agency operating the program within a hospital and each local agency operating the program that has a cooperative arrangement with a hospital shall—

"(i) advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services, of the availability of program benefits; and

"(ii) to the extent feasible, provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in such program.";

(C) in paragraph (9)—

(i) by inserting "(A)" after "(9)"; and

(ii) by adding at the end the following new subparagraph:

"(B) Any State agency that must suspend or terminate benefits to any participant during the participant's certification period due to a shortage of funds for the program shall first issue a notice to such participant. Such notice shall include, in addition to other information required by the Secretary, the categories of participants whose benefits are being suspended or terminated due to such shortage.";

(D) in subparagraph (A) of paragraph (14), by inserting ", breastfeeding promotion," after "nutrition education";

(E) in paragraph (17), by inserting before the period the following: "and to accommodate the special needs and problems of individuals who are incarcerated in prisons or juvenile detention facilities"; and

(F) by adding at the end the following new paragraphs:

"(18)(A) Except as provided in subparagraph (B), a State agency may implement income eligibility guidelines under this section at the time the State implements income eligibility guidelines under the medicaid program.

"(B) Income eligibility guidelines under this section shall be implemented not later than July 1 of each year.

"(19) Each local agency participating in the program under this section shall provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program under this section, but who cannot be served because the program is operating at capacity in the local area.

"(20) The State agency shall adopt policies that—

"(A) require each local agency to attempt to contact each pregnant woman who misses an appointment to apply for participation in the program under this section, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency; and

"(B) in the case of local agencies that do not routinely schedule appointments for individuals seeking to apply or be recertified for participation in the program under this section, require each such local agency to schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification.";

(5) in subsection (g)—

(A) by amending paragraph (1) to read as follows:

Appropriation authorization.

"(1) There are authorized to be appropriated to carry out this section $2,158,000,000 for the fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994. As authorized by section 3 of the National School Lunch Act, appropriations to carry out the provisions of this section may be made not more than 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.";

(B) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2)(A) Notwithstanding any other provision of law, unless enacted in express limitation of this subparagraph, the Secretary—

"(i) in the case of legislation providing funds through the end of a fiscal year, shall issue—

"(I) an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 15-day period beginning on the date of the enactment of such legislation; and

"(II) subsequent allocations of funds provided by the enactment of such legislation not later than the beginning of each of the second, third, and fourth quarters of the fiscal year; and

"(ii) in the case of legislation providing funds for a period that ends prior to the end of a fiscal year, shall issue an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 10-day period beginning on the date of the enactment of such legislation.

"(B) In any fiscal year—

"(i) unused amounts from a prior fiscal year that are identified by the end of the first quarter of the fiscal year shall be recovered and reallocated not later than the beginning of the second quarter of the fiscal year; and "(ii) unused amounts from a prior fiscal year that are identified after the end of the first quarter of the fiscal year shall be recovered and reallocated on a timely basis.

"(3) Notwithstanding any other provision of law, unless enacted in express limitation of this paragraph—

"(A) the allocation of funds required by paragraph (2)(A)(i)(I) shall include not less than ⅓ of the amounts appropriated by the legislation described in such paragraph;

"(B) the allocations of funds required by paragraph (2)(A)(i)(II) to be made not later than the beginning of the second and third quarters of the fiscal year shall each include not less than ¼ of the amounts appropriated by the legislation described in such paragraph; and

"(C) in the case of the enactment of legislation providing appropriations for a period of not more than 4 months, the allocation of funds required by paragraph (2)(A)(ii) shall include all amounts appropriated by such legislation except amounts reserved by the Secretary for purposes of carrying out paragraph (5).";

(D) in paragraph (5) (as redesignated by subparagraph (B) of this paragraph), by striking "$3,000,000" and inserting "$5,000,000"; and

(E) by adding at the end the following new paragraph:

"(6) Upon the completion of the 1990 decennial census, the Secretary, in coordination with the Secretary of Commerce, shall make available an estimate, by State and county (or equivalent political subdivision) of the number of women, infants, and children who are members of families that have incomes below the maximum income limit for participation in the program under this section.";

(6) by amending subsection (h) to read as follows:

Grants.

"(h)(1)(A) Each fiscal year, the Secretary shall make available, from amounts appropriated for such fiscal year under subsection (g)(1) and amounts remaining from amounts appropriated under such subsection for the preceding fiscal year, an amount sufficient to guarantee a national average per participant grant to be allocated among State agencies for costs incurred by State and local agencies for nutrition services and administration for such year.

"(B)(i) The amount of the national average per participant grant for nutrition services and administration for any fiscal year shall be an amount equal to the amount of the national average per participant grant for nutrition services and administration issued for the fiscal year 1987, as adjusted.

"(ii) Such adjustment, for any fiscal year, shall be made by revising the national average per participant grant for nutrition services and administration for the fiscal year 1987 to reflect the percentage change between—

"(I) the value of the index for State and local government purchases, using the implicit price deflator, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 1986; and

"(II) the best estimate that is available as of the start of the fiscal year of the value of such index for the 12-month period ending June 30 of the previous fiscal year.

"(C) In any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from amounts appropriated under such section for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food benefits under this section, except to the exter that such amounts are needed to carry out the purposes of subsections (g)(4) and (g)(5).

"(2)(A) For each of the fiscal years 1990, 1991, 1992, 1993 and 1994, the Secretary shall allocate to each State agency from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula shall—

"(i) be designed to take into account—

"(I) the varying needs of each State;

"(II) the number of individuals participating in each State; and

"(III) other factors which serve to promote the proper, efficient, and effective administration of the program under this section;

"(ii) provide for each State agency—

"(I) an estimate of the number of participants for the fiscal year involved; and

"(II) a per participant grant for nutrition services and administration for such year; and

"(iii) provide for a minimum grant amount for State agencies.

"(B)(i) Except as provided in clause (ii) and subparagraph (C), in any fiscal year, the total amount allocated to a State agency for costs of nutrition services and administration under the formula prescribed by the Secretary under subparagraph (A) shall constitute the State agency's operational level for such costs for such year even if the number of participants in the program at such agency is lower than the estimate provided under subparagraph (A)(ii)(I).

"(ii) If a State agency's per participant expenditure for nutrition services and administration is more than 15 percent higher than its per participant grant for nutrition services and administration without good cause, the Secretary may reduce such State agency's operational level for costs of nutrition services and administration.

"(C) In any fiscal year, the Secretary may reallocate amounts provided to State agencies under subparagraph (A) for such fiscal year. When reallocating amounts under the preceding sentence, the Secretary may provide additional amounts to, or recover amounts from, any State agency.

"(3)(A) Except as provided in subparagraphs (B) and (C), in each fiscal year, each State agency shall expend—

"(i) for nutrition education activities and breastfeeding promotion and support activities, an aggregate amount that is not less than the sum of—

"(I) ⅙ of the amounts expended by the State for costs of nutrition services and administration; and

"(II) an amount equal to a proportionate share of $8,000,000, with each State's share determined on the basis of the number of pregnant women and breastfeeding women in the program in the State as a percentage of the number of pregnant women and breastfeeding women in the program in all States; and

"(ii) for breastfeeding promotion and support activities an amount that is not less than the amount determined for such State under clause (i)(II).

"(B) The Secretary may authorize a State agency to expend an amount less than the amount described in subparagraph (A)(ii) for purposes of breastfeeding promotion and support activities if—

"(i) the State agency so requests; and

"(ii) the request is accompanied by documentation that other funds will be used to conduct nutrition education activities at a level commensurate with the level at which such activities would be conducted if the amount described in subparagraph (A)(ii) were expended for such activities.

"(C) The Secretary may authorize a State agency to expend for purposes of nutrition education an amount that is less than the difference between the aggregate amount described in subparagraph (A) and the amount expended by the State for breastfeeding promotion and support programs if—

"(i) the State agency so requests; and

"(ii) the request is accompanied by documentation that other funds will be used to conduct such activities.

"(D) The Secretary shall limit to a minimal level any documentation required under this paragraph.

"(4) The Secretary shall—

"(A) in consultation with the Secretary of Health and Human Services, develop a definition of breastfeeding for the purposes of the program under this section;

"(B) authorize the purchase of breastfeeding aids by State and local agencies as an allowable expense under nutrition services and administration;

"(C) require each State agency to designate an agency staff member to coordinate breastfeeding promotion efforts identified in the State plan of operation and administration; and

"(D) require the State agency to provide training on the promotion and management of breastfeeding to staff members of local agencies who are responsible for counseling participants in the program under this section concerning breastfeeding.

"(5)(A) Subject to subparagraph (B), in any fiscal year that a State agency achieves, through use of acceptable measures, participation that exceeds the participation level estimated for such State agency under paragraph (2)(A)(ii)(I), such State agency may convert amounts allocated for food benefits for such fiscal year for costs of nutrition services and administration to the extent that such conversion is necessary—

"(i) to cover allowable expenditures in such fiscal year; and

"(ii) to ensure that the State agency maintains the level established for the per participant grant for nutrition services and administration for such fiscal year.

"(B) If a State agency increases its participation level through measures that are not in the nutritional interests of participants or not otherwise allowable (such as reducing the quantities of foods provided for reasons not related to nutritional need), the Secretary may refuse to allow the State agency to convert amounts allocated for food benefits to defray costs of nutrition services and administration.

"(C) For the purposes of this paragraph, the term 'acceptable measures' includes use of cost containment measures, curtailment of vendor abuse, and breastfeeding promotion activities.

"(6) In each fiscal year, each State agency shall provide, from the amounts allocated to such agency for such year for costs of nutrition services and administration, an amount to each local agency for its costs of nutrition services and administration. The amount to be provided to each local agency under the preceding sentence shall be determined under allocation standards developed by the State agency in cooperation with the several local agencies, taking into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as—

"(A) local agency staffing needs;

"(B) density of population;

"(C) number of individuals served; and

"(D) availability of administrative support from other sources.

"(7) The State agency may provide in advance to any local agency any amounts for nutrition services and administration deemed necessary for successful commencement or significant expansion of program operations during a reasonable period following approval of—

"(A) a new local agency;

"(B) a new cost containment measure; or

"(C) a significant change in an existing cost containment measure.

"(8)(A) No State may receive its allocation under this subsection unless on or before August 30, 1989 (or a subsequent date established by the Secretary for any State) such State has—

"(i) examined the feasibility of implementing cost containment measures with respect to procurement of infant formula, and, where practicable, other foods necessary to carry out the program under this section; and

"(ii) initiated action to implement such measures unless the State demonstrates, to the satisfaction of the Secretary, that such measures would not lower costs or would interfere with the delivery of formula or foods to participants in the program.

"(B)(i) Except as provided in subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A), any State that provides for the purchase of foods under the program at retail grocery stores shall, with respect to the procurement of infant formula, use—

"(I) a competitive bidding system; or

"(II) any other cost containment measure that yields savings equal to or greater than savings generated by a competitive bidding system when such savings are determined by comparing the amounts of savings that would be provided over the full term of contracts offered in response to a single invitation to submit both competitive bids and bids for other cost containment systems for the sale of infant formula.

"(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels rise), such as—

"(I) the number of infants who would not be expected to receive the contract brand of infant formula under a competitive bidding system;

"(II) the number of cans of infant formula for which no rebate would be provided under another rebate system; and

"(III) differences in administrative costs relating to the implementation of the various cost containment systems (such as costs of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

Contracts.

"(C) In the case of any State that has a contract in effect on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, subparagraph (B) shall not apply to the program operated by such State under this section until the term of such contract, as such term is specified by the contract as in effect on such date, expires. In the case of any State that has more than 1 such contract in effect on the date of the enactment of such Act, subparagraph (B) shall not apply until the term of the contract with the latest expiration date, as such term is specified by such contract as in effect on the date of the enactment of such Act, expires.

"(D)(i) The Secretary shall waive the requirement of subparagraph (B) in the case of any State that demonstrates to the Secretary that—

"(I) compliance with subparagraph (B) would be inconsistent with efficient or effective operation of the program operated by such State under this section; or

"(II) the amount by which the savings yielded by an alternative cost containment system would be less than the savings yielded by a competitive bidding system is sufficiently minimal that the difference is not significant.

"(ii) The Secretary shall prescribe criteria under which a waiver may be granted pursuant to clause (i).

"(iii) The Secretary shall provide information at 6-month intervals to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on waivers that have been granted under clause (i).

Indians.

"(E)(i) The Secretary shall provide technical assistance to small Indian State agencies carrying out this paragraph in order to assist such agencies to achieve the maximum cost containment savings feasible.

"(ii) The Secretary shall also provide technical assistance, on request, to State agencies that do not have large caseloads and that desire to consider a cost containment system that covers more than 1 State agency.

"(iii) The Secretary may waive the requirement of subparagraph (B) in the case of any Indian State agency that has not more than 1,000 participants.

"(F) No State may enter into a cost containment contract (in this subparagraph referred to as the "original contract") that prescribes conditions that would void, reduce the savings under, or otherwise limit the original contract if the State solicited or secured bids for, or entered into, a subsequent cost containment contract to take effect after the expiration of the original contract.

Regulations.

"(G) Not later than the expiration of the 120-day period beginning on the date of the enactment of the Child Nutrition and WIC Reauthorization Act of 1989, the Secretary shall prescribe regulations to carry out this paragraph. Such regulations shall address issues involved in comparing savings from different cost containment measures, as provided under subparagraph (B).

"(9) For purposes of this subsection, the term 'cost containment measure' means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in its approved plan of operation and administration.";

(7) in subsection (i)—

(A) in paragraph (1), by striking "funds provided in accordance with this section" and inserting "amounts made available for food benefits under subsection (h)(1)(C)";

(B) in subparagraph (D) of paragraph (3)—

(i) by striking "approved cost-savings strategies as identified in subsection (h)(5)(A)" and inserting "cost containment measures as defined in subsection (h)(9)"; and

(ii) by striking "at the discretion of the Secretary, up to 5 percent" and inserting "not more than 3 percent"; and

(C) by adding at the end the following new paragraph:

"(7) In addition to any amounts expended under paragraph (3)(A)(i), any State agency using cost containment measures as defined in subsection (h)(9) may temporarily use amounts made available to such agency for the first quarter of a fiscal year to defray expenses for costs incurred during the final quarter of the preceding fiscal year. In any fiscal year, any State agency that uses amounts made available for a succeeding fiscal year under the authority of the preceding sentence shall restore or reimburse such amounts when such agency receives payment as a result of its cost containment measures for such expenses.";

(8) in subsection (j), by striking "each year" and inserting "every other year";

(9) in subsection (k)(1)—

(A) in the first sentence, by striking "twenty-three" and inserting "24"; and

(B) in the second sentence, by inserting after "the Secretary;" the following: "1 member shall be an expert in the promotion of breast feeding;"; and

(10) by adding at the end the following new subsections:

Education. Health care professionals.

"(o)(1) Subject to the availability of funds appropriated for the purpose of carrying out this subsection, the Secretary is authorized to establish a demonstration program for the establishment of clinics for participants in the program under this section at community colleges that offer nursing education programs. In determining the location of clinics under this subsection, the Secretary shall consider—

"(A) the location of the community college under consideration;

"(B) its accessibility to individuals eligible to participate in the special supplemental food program under this section; and

"(C) its willingness to operate the clinic during nontraditional hours.

"(2) The Secretary shall, from funds appropriated for the purpose of carrying out this subsection—

"(A) evaluate any demonstration program carried out under paragraph (1); and

Reports.

"(B) submit to the Congress a report containing the results of such evaluation.

Appropriation authorization.

"(3) There is authorized to be appropriated for purposes of carrying out this subsection $1,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

Grants.

"(p)(1) The Secretary is authorized to make grants to State agencies for the purpose of improving and updating information and data systems used for purposes of carrying out programs under this section.

"(2) Any State that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, and containing or accompanied by such information, as the Secretary may reasonably require. Grants shall be awarded based on the need demonstrated by States in their applications.

Appropriation authorization.

"(3) There is authorized to be appropriated for purposes of carrying out this subsection $2,000,000 for the fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994.".

42 USC 1786 note.

(b) Review of Priority System.—

(1) In general.—During the fiscal years 1990 and 1991, the Secretary of Agriculture shall conduct a review of the relationship between the nutritional risk criteria established under section 17 of the Child Nutrition Act of 1966 and the priority system used under the special supplemental food program for women, infants, and children carried out under such section (hereafter in this section referred to as the "program"), especially as it affects pregnant women. In conducting such review, the Secretary of Agriculture shall—

(A) consult with the directors of State and local agencies that operate the program and with other individuals with expertise in the field of nutrition;

(B) take into consideration the preventive nature of the program; and

(C) examine the risks to individuals eligible for participation in the program, particularly pregnant women, from conditions such as homelessness, mental illness, and conditions that pose barriers to receipt of prenatal care, that may be associated with an increased probability of adverse pregnancy outcome or other adverse effects on health.

(2) Reports to congress.—The Secretary of Agriculture shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the review conducted as required by paragraph (1). Under the preceding sentence, the Secretary of Agriculture shall submit to such committees—

(A) a preliminary report not later than October 1, 1990; and

(B) a final report not later than July 1, 1991.

42 USC 1786 note.

(c) Report on WIC Food Package.—

(1) In general.—The Secretary of Agriculture shall review the appropriateness of foods eligible for purchase under the special supplemental food program for women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966.

(2) Factors.—In conducting such review, the Secretary of Agriculture shall take into consideration such factors as—

(A) how effectively protein, calcium, and iron are provided to participants;

(B) nutrient density of foods; and

(C) the extent to which nutrients, for which program participants are most vulnerable to deficiencies, such as iron, thiamine, riboflavin, vitamin A, and zinc, are effectively provided to participants.

(3) Reports.—The Secretary of Agriculture shall provide to the Congress—

(A) a preliminary report on such review no later than June 30, 1991; and

(B) a final report on such review no later than June 30, 1992.

42 USC 1786 note.

(d) REPORT ON COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall review the effect on costs for nutrition services and administration incurred by State and local agencies of this section, section 213, and the amendments made by such sections (including the effect of both increases and decreases in requirements imposed on such agencies).

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the appropriate committees of the Congress a report on the results of the review conducted under this subsection.

42 USC 1786 note.

(e) PAPERWORK REDUCTION.—In implementing and monitoring compliance with the provisions of the amendments made by this section (other than the amendment made by subsection (a)(2) to section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)), the Secretary of Agriculture shall not impose any new requirement on a State or local agency that would require the State or local agency to place additional paperwork or documentation in a case file maintained by a local agency.

42 USC 1786 note. Regulations.

(f) IMPLEMENTATION.—

(1) BREASTFEEDING PROMOTION; NUTRITION EDUCATION; OUTREACH.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsections (a)(2), (a)(3), and (a)(4).

Effective date.

(2) EXTENSION OF AUTHORIZATION; ALLOCATIONS.—The amendments made by subsections (a)(5), (a)(6), and (a)(7) shall be effective as of October 1, 1989.

SEC. 124. NUTRITION EDUCATION AND TRAINING.

Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) by amending subparagraph (B) to read as follows: "(B) training school food service personnel in the principles and practices of food service management, in cooperation with materials developed at any food service management institute established as authorized by section 21(a)(2) of the National School Lunch Act, and"; and

(ii) in subparagraph (C), by striking "schools and child care institutions" and inserting "schools, child care institutions, and institutions offering summer food service programs under section 13 of the National School Lunch Act";

(B) in paragraph (2), by striking "the National Advisory Council on Child Nutrition;"; and

(C) in the first sentence of paragraph (4), by inserting before the period the following: ", in coordination with the activities authorized under section 21 of the National School Lunch Act";

(2) in subparagraph (C) of subsection (h)(3), by striking "the National Advisory Council on Child Nutrition,";

(3) by amending paragraph (2) of subsection (i) to read as follows:

Appropriation authorization.

"(2)(A) There is authorized to be appropriated for grants to each State for the conduct of nutrition education and information programs—

"(i) $10,000,000 for the fiscal year 1990;

"(ii) $15,000,000 for the fiscal year 1991;

"(iii) $20,000,000 for the fiscal year 1992; and

"(iv) $25,000,000 for each of the fiscal years 1993 and 1994.

Grants.

"(B)(i)(I) Subject to clause (ii), grants to each State from the amounts appropriated under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within such State.

"(II) If the amount appropriated for any fiscal year is insufficient to pay the amount to which each State is entitled under subclause (I), the amount of each grant shall be ratably reduced. If additional funds become available for making such payments, such amounts shall be increased on the same basis as they were reduced.

"(ii) No State shall receive an amount that is less than—

"(I) $50,000, in any fiscal year in which the amount appropriated for purposes of this section is less than $10,000,000;

"(II) $62,500, in any fiscal year in which the amount appropriated for purposes of this section is $10,000,000 or more but is less than $15,000,000;

"(III) $68,750, in any fiscal year in which the amount appropriated for purposes of this section is $15,000,000 or more but is less than $20,000,000; and

"(IV) $75,000 in any fiscal year in which the amount appropriated for purposes of this section is $20,000,000 or more."; and

(4) by adding at the end the following new subsection:

"(j)(1) The Secretary shall assess the nutrition information and education program carried out under this section to determine what nutrition education needs are for children participating under the National School Lunch Act in the school lunch program, the summer food service program, and the child care food program.

"(2) The assessment required by paragraph (1) shall be completed not later than October 1, 1990.".

PART C—CROSS-PROGRAM PROVISIONS

SEC. 131. DETERMINATION OF TOTAL COMMODITY ASSISTANCE FOR THE SCHOOL LUNCH AND CHILD CARE FOOD PROGRAMS.

(a) School Lunch Program.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics.

"(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest ¼ cent.

State and local governments.

"(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by subparagraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.

"(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

"(E) Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program."; and

(2) in paragraph (2), by striking "Each State agency" and inserting "To the maximum extent feasible, each State agency".

(b) Child Care Food Program.—Paragraph (1) of section 17(h) of the National School Lunch Act (42 U.S.C. 1766(h)) is amended to read as follows:

"(1)(A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

State and local governments.

"(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under section 6(e) for the school year concerned.

"(C) After the end of each school year, the Secretary shall—

"(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

"(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

"(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.".

42 USC 1755 note.

(c) Effective Date.—The amendments made by this section shall become effective on July 1, 1989.

TITLE II—PAPERWORK REDUCTION AMENDMENTS

PART A—REDUCTION OF PAPERWORK UNDER THE NATIONAL SCHOOL LUNCH ACT

Contracts.

SEC. 201. PERMANENCY OF STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SCHOOL LUNCH PROGRAM.

Section 8 of the National School Lunch Act (42 U.S.C. 1757) is amended by inserting after the first sentence the following new sentences: "The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 202. INCOME DOCUMENTATION REQUIREMENTS.

(a) ELIMINATION OF DUPLICATE PROVISIONS.—

(1) IN GENERAL.—Section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)), as similarly amended first by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4203 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 1 of Public Law 100-356, is amended to read as if only the amendment made by section 4203 of the Child Nutrition Amendments of 1986 was enacted.

(2) FREE LUNCH PROGRAM ELIGIBILITY UNDER PUBLIC LAW 100-356.—(A) Section 9(b)(1)(A) of the National School Lunch Act (as amended by paragraph (1) of this subsection) (42 U.S.C. 1758(b)(1)(A)) is amended—

(i) in the second sentence, by striking "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting "The"; and

(ii) by striking the third sentence.

Effective date.
42 USC 1758 note.

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on June 28, 1988.

(b) INCOME DOCUMENTATION REQUIREMENTS.—Section 9 of the National School Lunch Act (as amended by subsection (a) of this section) (42 U.S.C. 1758) is amended—

(1) by amending subparagraph (C) of subsection (b)(2) to read as follows:

"(C)(i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

"(ii) Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

"(I) a household that is receiving food stamps under the Food Stamp Act of 1977; or

"(II) a family that is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.

"(iii) School food service authorities shall only use information obtained under clause (ii) for the purpose of determining eligibility for participation in programs under this Act and the Child Nutrition Act of 1966.";

(2) in subsection (d)—

(A) in paragraph (1), by striking "numbers of all adult" and all that follows and inserting the following: "number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C).";

(B) in paragraph (2)—

(i) by amending subparagraph (A) to read as follows:

"(A) appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate local school food authority so that such authority may calculate the total income of such household;";

(ii) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(C) documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act.".

(c) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (b).

Regulations.
42 USC 1758 note.

SEC. 203. REPORTS TO STATE EDUCATIONAL AGENCIES.

Paragraph (1) of section 11(e) of the National School Lunch Act (42 U.S.C. 1759a(e)) is amended by striking "Each school" and all that follows through "State educational agency" and inserting the following: "The Secretary, when appropriate, may request each school participating in the school lunch program under this Act to report monthly to the State educational agency".

SEC. 204. 2-YEAR APPLICATIONS UNDER CHILD CARE FOOD PROGRAM.

(a) GENERAL AUTHORITY.—Subsection (d) of section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(d)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall develop a policy that allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 2-year intervals.

"(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(1).".

Regulations.
42 USC 1766 note.

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary shall issue final regulations to implement the amendments made by subsection (a).

SEC. 205. PILOT PROJECTS FOR ALTERNATIVE COUNTING METHODS.

(a) GENERAL AUTHORITY.—Section 18 of the National School Lunch Act (as amended by section 107(2) of this Act) (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(g)(1)(A) The Secretary shall carry out a pilot program for purposes of identifying alternatives to—

"(i) daily counting by category of meals provided by school lunch programs under this Act; and

"(ii) annual applications for eligibility to receive free meals or reduced price meals.

State and local governments.

"(B) For the purposes of carrying out the pilot program under this paragraph, the Secretary may waive requirements of this Act relating to counting of meals provided by school lunch programs and applications for eligibility.

"(C) For the purposes of carrying out the pilot program under this paragraph, the Secretary shall solicit proposals from State educational agencies and local educational agencies for the alternatives described in subparagraph (A).

"(2)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have in attendance children at least 80 percent of whom are eligible for free lunches or reduced price lunches shall submit applications for a 3-year period.

"(B) Each school participating in the pilot program under this paragraph shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (C) to the daily total student meal count.

"(C) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

"(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

"(ii) shall be updated not later than September 30 of each year.

"(3)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have universal free school lunch programs shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (B) to the daily total student meal count.

"(B) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

"(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

"(ii) shall be updated not later than September 30 of each year.

"(C) For the purposes of this paragraph, a universal free school lunch program is a program under which the school operating the program elects to serve all children in that school free lunches under the school lunch program during any period of 3 successive years and pays, from sources other than Federal funds, for the costs of serving such lunches which are in excess of the value of assistance received under this Act with respect to the number of lunches served during that period.

"(4) In addition to the pilot projects described in this subsection, the Secretary may conduct other pilot projects to test alternative counting and claiming procedures.

"(5) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.".

(b) IMPLEMENTATION.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement section 18(g) of the National School Lunch Act (as added by subsection (a) of this section).

Regulations.
42 USC 1769 note.

PART B—REDUCTION OF PAPERWORK UNDER THE CHILD NUTRITION ACT OF 1966

SEC. 211. STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SPECIAL MILK PROGRAM.

(a) ELIMINATION OF DUPLICATE PROVISION.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)), as similarly amended first by section 329 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-365) and later by section 4209 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the later amendment was enacted.

(b) STATE-LOCAL AGREEMENTS.—Subsection (a) of section 3 of the Child Nutrition Act of 1966 (as amended by subsection (a) of this section) (42 U.S.C. 1772) is amended by adding at the end the following new paragraph:

"(10) The State educational agency shall disburse funds paid to the State during any fiscal year for purposes of carrying out the program under this section in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State. The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

SEC. 212. PERMANENCY OF STATE-LOCAL AGREEMENTS FOR CARRYING OUT THE SCHOOL BREAKFAST PROGRAM.

(a) Elimination of Duplicate Provision.—

(1) In general.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)), as similarly amended first by section 330(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-366) and later by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), and as then amended by section 210 of the Hunger Prevention Act of 1988 (Public Law 100-435) is amended to read as if only the amendment made by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

(2) Improvement of school breakfast program under hunger prevention act.—(A) The first sentence of section 4(b)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(3)) is amended by striking "3 cents" and inserting "6 cents".

Effective date. 42 USC 1773 note.

(B) The amendments made by subparagraph (A) shall take effect as if such amendments had been effective on July 1, 1989.

(b) State-Local Agreements.—Subparagraph (A) of section 4(b)(1) of the Child Nutrition Act of 1966 (as amended by subsection (a) of this section) (42 U.S.C. 1773(b)(1)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II);

(2) by inserting "(i)" after "(A)"; and

(3) by adding at the end the following new clause:

"(ii) The agreements described in clause (i)(I) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.".

State and local governments.

SEC. 213. PAPERWORK REDUCTION REQUIREMENTS UNDER THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) General Authority.—Section 17 of the Child Nutrition Act of 1966 (as amended by section 123 of this Act) (42 U.S.C. 1786) is amended—

(1) by adding at the end of subsection (e) the following new paragraph:

"(5) Each local agency may use a master file to document and monitor the provision of nutrition education services (other than the initial provision of such services) to individuals that are required, under standards prescribed by the Secretary, to be included by the agency in group nutrition education classes."; and

(2) in subsection (f)—

(A) in paragraph (7)—

(i) by inserting "(A)" after "(7)"; and

(ii) by adding at the end the following new subparagraph:

"(B) State agencies may provide for the delivery of vouchers to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require the participant to travel to the local agency to obtain vouchers. The State agency shall describe any plans for

Mail.

issuance of vouchers by mail in its plan submitted under paragraph (1). The Secretary may disapprove a State plan with respect to the issuance of vouchers by mail in any specified jurisdiction or part of a jurisdiction within a State only if the Secretary finds that such issuance would pose a significant threat to the integrity of the program under this section in such jurisdiction or part of a jurisdiction."; and

(B) by adding after paragraph (20) (as added by section 123(a)(3)(F) of this Act) the following new paragraph:

"(21) Each State agency shall conduct monitoring reviews of each local agency at least biennially.".

(b) Implementation.—Not later than July 1, 1990, the Secretary of Agriculture shall issue final regulations to implement the amendments made by subsection (a).

Regulations.
42 USC 1786 note.

SEC. 214. UPDATING OF PLANS FOR NUTRITION EDUCATION AND TRAINING.

Paragraph (3) of section 19(h) of the Child Nutrition Act of 1966 (as amended by section 124 of this Act) (42 U.S.C. 1788(h)) is amended by adding at the end the following new sentence: "Each plan developed as required by this section shall be updated on an annual basis.".

TITLE III—TECHNICAL AMENDMENTS

PART A—AMENDMENTS TO THE NATIONAL SCHOOL LUNCH ACT

SEC. 301. APPORTIONMENTS TO STATES.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 4 the following new heading:

42 USC 1753.

"APPORTIONMENTS TO STATES".

SEC. 302. DIRECT FEDERAL EXPENDITURES.

Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended—

(1) in paragraph (1), by striking "his" and inserting "the Secretary's";

(2) in paragraph (2), by striking "him" and inserting "the Secretary"; and

(3) in the matter following paragraph (3)—

(A) by striking "him" and inserting "the Secretary";

(B) by striking "(50 Stat. 323)"; and

(C) by striking "(49 Stat. 774), as amended".

SEC. 303. PAYMENTS TO STATES.

(a) Insertion of Section Heading.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 7 the following new heading:

42 USC 1756.

"PAYMENTS TO STATES".

(b) Correction of Typographical Error.—Paragraph (2) of section 7(a) of the National School Lunch Act (42 U.S.C. 1756(a)) is amended by striking "the the" and inserting "the".

SEC. 304. STATE DISBURSEMENT TO SCHOOLS.

Subsection (d) of section 8 of the National School Lunch Act (as designated by section 201 of this Act) (42 U.S.C. 1757) is amended—

(1) by striking "persons" and inserting "individuals";

Handicapped persons.

(2) by striking "to be mentally or physically handicapped" and inserting "to have 1 or more mental or physical handicaps"; and

(3) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps".

SEC. 305. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) Elimination of Duplicate Provision.—Section 9(e) of the National School Lunch Act (42 U.S.C. 1758(e)), as similarly added first by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-364), and later by section 4204 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) Miscellaneous Technical Amendments.—Section 9 of the National School Lunch Act (as amended by sections 101 and 202 of this Act and subsection (a) of this section) (42 U.S.C. 1758) is amended—

(1) by striking "family-size" each place it appears and inserting "family size"; and

(2) in subsection (c)—

(A) in the first sentence, by striking "School-lunch" and inserting "School lunch";

(B) in the third sentence, by striking "(49 Stat. 774), as amended"; and

(C) in the fourth sentence, by striking ", as amended," each place it appears.

SEC. 306. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) Elimination of Duplicate Provisions.—

(1) Definition of secretary.—Section 12(d)(8) of the National School Lunch Act (42 U.S.C. 1760(d)(8)), as similarly added first by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-369), later by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-372), and later by section 4503(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(2) Use of school lunch facilities for elderly programs.—Section 12(i) of the National School Lunch Act (42 U.S.C. 1760(i)), as similarly added first by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-361), later by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-365), and later by section 4206 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal

Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 12 of the National School Lunch Act (as amended by subsection (a)) (42 U.S.C. 1760) is amended—

(1) in subsection (b), by striking "his" each place it appears and inserting "the Secretary's";

(2) in paragraph (5) of subsection (d), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(3) in subsection (g), by striking "his" and inserting "personal"; and

(4) in subsection (i) (as amended by subsection (a)(2))—

(A) by striking "(42 U.S.C. 1771 et seq.)"; and

(B) by striking "(42 U.S.C. 3001 et seq.)".

SEC. 307. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13 of the National School Lunch Act (as amended by section 102 of this Act) (42 U.S.C. 1761) is amended—

(1) in subsection (d), by striking "July 1," and inserting "July 1";

(2) in the third sentence of subsection (f), by striking "prescribed" and inserting "prescribe";

(3) in the first sentence of subsection (g), by striking ": *Provided*" and all that follows through "respectively"; and

(4) in subsection (h)—

(A) by striking "(7 U.S.C. 1431)";

(B) by striking "(7 U.S.C. 612c)"; and

(C) by striking "(7 U.S.C. 1446a-1)".

SEC. 308. REPEAL OF OBSOLETE PROVISION RELATING TO TEMPORARY EMERGENCY ASSISTANCE.

Section 13A of the National School Lunch Act (42 U.S.C. 1762) is repealed.

SEC. 309. ELECTION TO RECEIVE CASH PAYMENTS.

The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by inserting before section 16 the following new heading: 42 USC 1765.

"ELECTION TO RECEIVE CASH PAYMENTS".

SEC. 310. CHILD CARE FOOD PROGRAM.

(a) MISCELLANEOUS TECHNICAL AMENDMENTS.—Section 17 of the National School Lunch Act (as amended by sections 105, 131, and 204 of this Act) (42 U.S.C. 1766) is amended—

Handicapped persons.

(1) in subsection (a), by striking "handicapped children" each place it appears and inserting "children with handicaps";

(2) in the second sentence of subsection (d)(1) (as redesignated by section 204(1) of this Act), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986";

(3) in subsection (f)—

(A) in paragraph (1), by striking "day-care" and inserting "day care"; and

(B) in subparagraph (B) of paragraph (2), by striking the second period; and

(4) by striking subsection (k) (and redesignating the succeeding subsections accordingly).

(b) Elimination of Duplicate Provision.—Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)), as similarly amended first by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-500 (100 Stat. 1783-367), later by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-370), and later by section 4401 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if only the latest amendment was enacted.

SEC. 311. PILOT PROJECTS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) (as amended by sections 107 and 205 of this Act) is amended—

(1) by striking subsections (a), (b), and (c), and redesignating the succeeding subsections accordingly; and

(2) in subsection (a) (as redesignated by paragraph (1))—

(A) by striking "(42 U.S.C. 1771 et seq.)"; and

(B) by striking "(42 U.S.C. 1774)".

SEC. 312. GENERAL AMENDMENTS.

The National School Lunch Act (as otherwise amended by this Act) (42 U.S.C. 1751 et seq.) is amended—

(1) by striking "school-lunch" each place it appears and inserting "school lunch";

(2) by striking "reduced-price" each place it appears and inserting "reduced price"; and

(3) by striking "special-assistance" each place it appears and inserting "special assistance".

PART B—AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966

SEC. 321. SPECIAL MILK PROGRAM AUTHORIZATION.

Section 3(a) of the Child Nutrition Act of 1966 (as amended by section 211 of this Act) (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence of paragraph (1), by striking "he" and inserting "the Secretary";

(2) in paragraph (2), by striking "(42 U.S.C. 1751 et seq.)";

(3) in paragraph (4), by striking "he" and inserting "the Secretary"; and

(4) in paragraph (5), by striking "their" and inserting "its".

SEC. 322. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

Section 4 of the Child Nutrition Act of 1966 (as amended by sections 121 and 212 of this Act) (42 U.S.C. 1773) is amended—

(1) by striking "reduced-price" each place it appears and inserting "reduced price"; and

(2) in paragraph (3) of subsection (b), by striking "(42 U.S.C. 1766)".

SEC. 323. REGULATIONS.

42 USC 1779.

The first sentence of section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking "he" and inserting "the Secretary".

SEC. 324. APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE.

(a) Insertion of Section Heading.—The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) is amended by inserting before section 14 the following heading:

"appropriations for administrative expense".

(b) Elimination of Gender-Specific Possessive Pronoun.—Section 14 of the Child Nutrition Act of 1966 (42 U.S.C. 1783) is amended—

(1) by striking "is" and inserting "are"; and

(2) by striking "his" and inserting "the Secretary's".

SEC. 325. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(1) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (f) as paragraphs (1) through (6), respectively;

(3) in paragraph (3) (as redesignated by paragraph (2) of this section), by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986"; and

(4) in paragraph (6) (as redesignated by paragraph (2) of this section)—

Handicapped persons.

(A) by striking "to be mentally or physically handicapped" and inserting "to have 1 or more mental or physical handicaps"; and

(B) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps".

SEC. 326. SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) Elimination of Duplicate Provisions.—

(1) State eligibility for wic funds.—Section 17(c)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(4)), as similarly amended first by section 342(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-367) and later by section 4302(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if the later amendment had not been enacted.

(2) Biennial report.—Section 17(d)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(4)), as similarly amended first by section 343(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99-591 (100 Stat. 3341-367) and later by section 4303(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661), is amended to read as if the later amendment had not been enacted.

(b) Miscellaneous Technical Amendments.—Section 17 of the Child Nutrition Act of 1966 (as amended by sections 123 and 213 of this Act and subsection (a) of this section) (42 U.S.C. 1786) is amended—

(1) in paragraph (3) of subsection (c), by striking "section 1304 of the Food and Agriculture Act of 1977" and inserting "section 4 of the Agriculture and Consumer Protection Act of 1973";

(2) in subsection (d)—

(A) by moving the margin of paragraph (4) 2 ems to the left, so that the left margin of such paragraph is indented 2 ems and is aligned with the margin of paragraph (3); and

(B) in paragraph (4), by moving the margins of subparagraphs (A) through (C) 2 ems to the left, so that the left margin of each such subparagraph is indented 4 ems;

(3) in subsection (f)—

(A) in paragraph (8), by striking "persons" each place it appears and inserting "individuals";

(B) in paragraph (10)—

(i) by striking "a person" and inserting "an individual";

(ii) by striking "person's" and inserting "individual's"; and

(iii) by striking "the person" and inserting "the individual"; and

(C) by moving the margin of paragraph (17) 2 ems to the left, so that the left margin of such paragraph is indented 2 ems and is aligned with the margin of paragraph (16);

(4) in subsection (m)—

(A) in subparagraph (B) of paragraph (7), by striking "(7 U.S.C. 2011 et seq.)"; and

(B) in subparagraph (A) of paragraph (11), by striking "person" and inserting "individual"; and

(5) in paragraph (1) of subsection (n), by striking "this Act" and inserting "the Anti-Drug Abuse Act of 1988".

SEC. 327. NUTRITION EDUCATION AND TRAINING.

Section 19 of the Child Nutrition Act of 1966 (as amended by sections 124 and 214 of this Act) (42 U.S.C. 1788) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking the semicolon each place it appears and inserting a comma;

(B) in the first sentence of paragraph (4)—

(i) by striking "(12 Stat." and all that follows through "308)"; and

(ii) by striking "(26 Stat." and all that follows through "328)"; and

(C) in paragraph (5)—

(i) by striking "(12 Stat." and all that follows through "308)"; and

(ii) by striking "(26 Stat." and all that follows through "328)"; and

(2) in paragraph (3) of subsection (h)—

(A) by striking "(12 Stat." and all that follows through "308)"; and

(B) by striking "(26 Stat." and all that follows through "328)".

Approved November 10, 1989.

LEGISLATIVE HISTORY—H.R. 24 (S. 1484):

HOUSE REPORTS: No. 101-194 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 31, considered and passed House.
Aug. 3, S. 1484 considered and passed Senate; H.R. 24, amended, passed in lieu.
Oct. 10, House concurred in Senate amendment with an amendment.
Oct. 24, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 10, Presidential statement.

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PUBLIC LAW 101-148—NOV. 10, 1989

MILITARY CONSTRUCTION APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE

39-139 O - 89 (148)

Public Law 101-148
101st Congress

An Act

Nov. 10, 1989
[H.R. 3012]

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1990, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, $819,129,000, to remain available until September 30, 1994: *Provided,* That of this amount, not to exceed $79,420,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,139,250,000, to remain available until September 30, 1994: *Provided,* That of this amount, not to exceed $82,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That none of the funds available to the Department of the Navy in this or any other Act may be utilized to initiate agricultural leases of more than one year's duration on land in or around Naval Air Station Fallon, Nevada.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,227,296,000, to remain available until September 30, 1994: *Pro-*

vided, That of this amount, not to exceed $99,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 100-447, $18,500,000 is hereby rescinded.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $537,440,000, to remain available until September 30, 1994: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $86,300,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-202, $10,000,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-447, $11,800,000 is hereby rescinded: *Provided further,* That, effective February 1, 1990, none of the unobligated funds appropriated in this Act for Defense Medical Facilities Office planning and design may be obligated until the Defense Medical Facilities Office initiates design of the aerospace medicine facility as required by the conference report accompanying Public Law 100-447.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $424,714,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the

Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $223,490,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $238,330,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $97,460,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $56,600,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $46,200,000, to remain available until September 30, 1994.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $78,982,000; for Operation and maintenance, and for debt payment, $1,375,000,000; in all $1,453,982,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1994.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $174,621,000; for Operation and maintenance, and for debt payment, $623,700,000; in all $798,321,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1994.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $200,071,000; for Operation and maintenance, and for debt payment, $741,808,000; in all $941,879,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1994.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $600,000; for Operation and maintenance, $20,700,000; in all $21,300,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1994.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $5,100,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), $500,000,000, to remain available for obligation until September 30, 1995: *Provided,* That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's $2,400,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. None of the funds appropriated in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 112. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 113. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exeeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 114. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 115. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1990, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 116. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 117. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the first session of the One Hundred First Congress.

Reports.

SEC. 118. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1990, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1990 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 119. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 120. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

10 USC 2860 note.

SEC. 121. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 122. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $25,000,000 may be obligated for contract cleaning of family housing units.

SEC. 123. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 124. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

Wages.
Government organization and employees.

SEC. 125. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 126. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

Hawaii.

SEC. 127. (a) SALE OF LANDS.—Notwithstanding any other provision of law, and subject to subsections (b) through (h), the Secretary of the Navy (hereinafter the "Secretary") may sell the following real property together with improvements thereon:

(1) Approximately 108 acres in Pearl City, Oahu, Hawaii, known as the Manana Storage Area; and

(2) Approximately 14 acres in Pearl City, Oahu, Hawaii, known as Pearl City Junction.

(b) CONDITIONS OF SALE.—

(1) MANANA STORAGE AREA.—The State of Hawaii shall have the right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (c).

(2) PEARL CITY JUNCTION.—The State of Hawaii shall have the first right to acquire and the Secretary shall have the authority to sell to the State of Hawaii this property by meeting the terms and conditions set forth in subsection (d). Should the State and the Secretary fail to consummate an agreement, the Secretary shall have authority to sell this property through competitive procedures.

(3) Consideration for each sale shall not be less than the fair market value of the property, as determined by the Secretary.

(4) Payment may be by cash or as specified in subsections (c) and (d), as determined by the Secretary.

(c) SALE OF MANANA STORAGE AREA.—

(1) As consideration for any transfer to the State of Hawaii of the Manana Storage Area, the Secretary shall receive—

(A) at a site or sites to be determined by the Secretary, design and construction to reasonable specifications to the Secretary's satisfaction: (i) an openable causeway from mainside Pearl Harbor Naval Base to Ford Island; and (ii) replacement facilities for those Navy facilities presently on Manana Storage Area; and actually relocate on Oahu, to the satisfaction of the Secretary, the functions presently on Manana Storage Area; or

(B) funds to allow the Secretary to perform the design, construction and relocation specified in subsection (c)(1)(A); or

(C) any combination of the consideration enumerated in subsections (c)(1)(A) and (c)(1)(B) above that accomplishes the design, construction, and relocation, at the discretion of, and to the satisfaction of, the Secretary.

(2) If the State of Hawaii constructs the causeway or replacement facilities or any portion thereof, upon the acceptance by the Secretary, the State shall transfer complete title to those facilities to the Secretary free of any liens or encumbrances.

(d) SALE OF PEARL CITY JUNCTION.—As consideration for the sale of Pearl City Junction, the Navy shall receive either funds, or actual design and construction of facilities plus relocation, or a combination thereof, as determined by the Secretary, to accommodate consolidation and relocation of the functions on the sale property to other Navy and Marine Corps property. This may include—

(1) relocation and consolidation of functions at Manana Storage Area and Pearl City Junction to common replacement facilities; and

(2) relocation of Marine Corps functions that would be displaced by such consolidation to replacement facilities to be designed and constructed at Marine Corps Air Station, Kaneohe Bay.

(e) USE OF FUNDS.—

(1) The Secretary may use the funds derived from any sale of land under this section to accomplish any of the purposes described in subsections (c) and (d) including any related expenses.

(2) Funds received from the sales of lands under this section may be placed in an interest bearing account by the Secretary until expended and the accrued interest therefrom may be used in the same manner as the sale proceeds.

(3) Any funds which are unexpended after all the actions described in subsections (c) and (d) have been accomplished, shall be available for design and construction of additional support facilities for Naval Supply Center, Pearl Harbor.

(f) LEGAL DESCRIPTIONS OF LANDS.—The exact acreages and legal descriptions of the properties to be transferred to the State of Hawaii or sold under this section shall be in accordance with surveys that are satisfactory to the Secretary.

(g) NOTIFICATION.—The Secretary may not enter into any contract under this section to—

(1) convey title to real property;

(2) provide for design or construction of a causeway to Ford Island, replacement facilities or other support facilities; and

(3) provide for relocation of functions from the properties to be sold until—

(A) the Secretary has transmitted to the appropriate Committees of Congress a report of the details of the proposed transaction; and Reports.

(B) a period of twenty-one days has expired from the date such report has been received by the Committees.

(h) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in agreements entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

Approved November 10, 1989.

LEGISLATIVE HISTORY—H.R. 3012:

HOUSE REPORTS: No. 100-176 (Comm. on Appropriations) and No. 101-307 (Comm. of Conference).
SENATE REPORTS: No. 101-130 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  July. 31, considered and passed House.
  Sept. 15, considered and passed Senate, amended.
  Oct. 26, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
  Oct. 27, Senate agreed to conference report; concurred in House amendments.

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Public Law 101-149
101st Congress

Joint Resolution

To designate the week beginning October 29, 1989, as "Gaucher's Disease Awareness Week".

Nov. 13, 1989
[S.J. Res. 73]

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of such enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequently has an adverse effect on tissues in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principle structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 29, 1989, is designated as "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 73:

CONGRESSIONAL RECORD, Vol. 135 (1989):
June 9, considered and passed Senate.
Oct. 31, considered and passed House.

○

Public Law 101-150
101st Congress

Joint Resolution

Nov. 13, 1989
[S.J. Res. 194]

Designating November 12 through 18, 1989 as "National Glaucoma Awareness Week".

Whereas glaucoma is the second leading cause of blindness among individuals in the United States;

Whereas glaucoma is the leading cause of blindness among black individuals in the United States;

Whereas the risk of blindness from glaucoma significantly increases in older age groups;

Whereas diabetes increases the risk of developing glaucoma;

Whereas at least two million individuals in the United States have glaucoma and at least 50 per centum of the individuals with glaucoma are unaware of it;

Whereas eighty thousand individuals in the United States are already blind from glaucoma and five million to ten million Americans are believed to have undiagnosed and elevated intraocular presssure, often a silent symptom of glaucoma;

Whereas early detection is critical to preventing blindness from glaucoma; and

Whereas periodic comprehensive eye examinations are the best means of detecting glaucoma and the number of individuals that receive examinations could be increased through greater public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12 through 18, 1989, is designated as "National Glaucoma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved November 13, 1989.

LEGISLATIVE HISTORY—S.J. Res. 194:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 20, considered and passed Senate.
Oct. 31, considered and passed House.

○

Public Law 101-151
101st Congress

Joint Resolution

Designating November 1989 as "An End to Hunger Education Month".

Nov. 14, 1989
[S.J. Res. 198]

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people annually, three-fourths of whom are children under the age of 5;

Whereas while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1989 is designated as "An End to Hunger Education Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved November 14, 1989.

LEGISLATIVE HISTORY—S.J. Res. 198:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 27, considered and passed Senate.
Oct. 31, considered and passed House.

○

39-139 0 - 89 (151)

Public Law 101-152
101st Congress

An Act

Nov. 15, 1989
[H.R. 3318]

To redesignate the Federal building in Houston, Texas, known as the Concorde Tower, as the "George Thomas 'Mickey' Leland Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1919 Smith Street in Houston, Texas, and known as the Concord Tower, shall be known and designated as the "George Thomas 'Mickey' Leland Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "George Thomas 'Mickey' Leland Federal Building".

Approved November 15, 1989.

LEGISLATIVE HISTORY—H.R. 3318:

HOUSE REPORTS: No. 101-319 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 30, considered and passed House.
Nov. 3, considered and passed Senate.

○

Public Law 101-153
101st Congress

Joint Resolution

Designating November 5-11, 1989, as "National Women Veterans Recognition Week".

Nov. 15, 1989
[H.J. Res. 35]

Whereas there are more than 1,200,000 women veterans in the Nation, representing 4.2 percent of the total veteran population;
Whereas the number of women serving in the Armed Forces and the number of women veterans continue to increase;
Whereas women veterans have contributed greatly to the Nation's security through honorable military service which in many cases involved great hardship and danger;
Whereas the contributions and sacrifices of women veterans on behalf of the Nation deserve greater public recognition and appreciation;
Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;
Whereas this lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and
Whereas designating a week to recognize women veterans in November 1989 will help further important gains made by women veterans following National Women Veterans Recognition Week in November 1984, 1985, 1986, 1987, and 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 5-11, 1989, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 15, 1989.

LEGISLATIVE HISTORY—H.J. Res. 35:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 31, considered and passed House.
Nov. 3, considered and passed Senate.

○

Public Law 101-154
101st Congress

Joint Resolution

Nov. 15, 1989
[H.J. Res. 435]

Making further continuing appropriations for the fiscal year 1990, and for other purposes.

103 Stat. 640.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of Public Law 101-100, as amended by Public Law 101-130, is further amended by striking out "November 15, 1989" and inserting in lieu thereof "November 20, 1989".

Approved November 15, 1989.

LEGISLATIVE HISTORY—H.J. Res. 435:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 15, considered and passed House and Senate.

○

Public Law 101-155
101st Congress

An Act

To extend the deadlines under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Washington.

Nov. 15, 1989
[S. 750]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

Effective date.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensees for FERC Projects numbered 2833, 4204, 4586, 4587, 4659, and 4660 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of each of such projects for up to a maximum of three consecutive two-year periods. This section shall take effect with respect to each such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

Approved November 15, 1989.

LEGISLATIVE HISTORY—S. 750 (H.R. 3021):

HOUSE REPORTS: No. 101-318 accompanying H.R. 3021 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-34 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 8, considered and passed Senate.
Oct. 30, H.R. 3021 considered and passed House, proceedings vacated and S. 750, amended, passed in lieu.
Nov. 3, Senate concurred in House amendments.

○

Public Law 101-156
101st Congress

An Act

ov. 16, 1989
[S. 1827]

To revise and clarify the authority of the Administrator of General Services relating to the acquisition and management of certain property in the city of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) there is a dire and immediate need for increased space for the criminal justice system and for Federal agencies to operate in the City of New York;

(2) the action of condemnation of certain lands would speed the process of providing additional space for such needs;

(3) condemnation procedures authorized in this Act are required to address a specific dire and immediate need, and should not be precedents for action by the Congress or other Federal agencies;

(4) community input is essential to the successful completion of construction projects such as those authorized in the Independent Agencies Appropriations Act, 1988;

(5) before and during construction of buildings referred to in the first sentence of section 8(a) of the Independent Agencies Appropriations Act, 1988, the Administrator of General Services should consult on an ongoing basis with the community board for such building to solicit its input;

(6) environmental reviews are essential to the successful completion of construction projects such as those authorized in the Independent Agencies Appropriations Act, 1988; and

(7) in the construction of buildings referred to in the first sentence of section 8(a) of the Independent Agencies Appropriations Act, 1988, all federally mandated environmental reviews, as required by environmental laws, should be conducted and closely monitored.

SEC. 2. CONDEMNATION AND LEASE AUTHORITY.

The Independent Agencies Appropriations Act, 1988 (as contained in title IV of Public Law 100-202; 101 Stat. 1329-401), is amended in section 8 of the matter under the heading GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS—

(1) by inserting "(a)" after "SEC. 8."; and

(2) by adding at the end of such section the following new subsections:

"(b) The lease entered into between the Administrator of General Services and the city of New York (hereinafter in this subsection and subsection (c) referred to as the 'City') pursuant to the fifth sentence of subsection (a) shall provide for an initial lease period of 30 years and shall provide options for the City to renew the lease for up to three successive lease periods of 30 years each.

"(c) The total rent paid by the City to the General Services Administration for each such renewal period shall not exceed the City's pro rata share of the cost of the capital replacement, repair, maintenance, and operation of the building in which such office space used by the City is located and any associated parking facility.

"(d) Notwithstanding any other provision of law, the Administrator of General Services may—

"(1) acquire from the City by condemnation under judicial process the real property necessary for the construction of the buildings referred to in the first sentence of subsection (a) and for the additional parking space referred to in such sentence;

"(2) for the purpose of acquiring such real property, establish the value of the just compensation of such real property by agreement with the City;

"(3) provide for the contractor responsible for financing the construction of such buildings, instead of the United States, to—

"(A) pay the City the just compensation payable by the United States for the acquisition of the real property; or

"(B) if all parties otherwise agree, compensate the City in an alternative negotiated agreement.

"(4) take title to the property for the United States after payment of such amount to the City by the contractor;

"(5) reimburse the contractor for the payment of that amount, and pay the contractor reasonable interest on that amount, over a period not to exceed 30 years and make such reimbursement and interest payments out of funds available in the Federal Building Fund for the rental of space; and

"(6) in the case of any real property referred to in clause (1) that is acquired by condemnation, establish rental rates for the lease to the City provided for in the fifth sentence of subsection (a) without applying a credit reflecting the value of the land acquired.".

Approved November 16, 1989.

LEGISLATIVE HISTORY—S. 1827:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 1, considered and passed Senate.
Nov. 2, considered and passed House.

○

PUBLIC LAW 101-157—NOV. 17, 1989

FAIR LABOR STANDARDS AMENDMENTS OF 1989

Public Law 101-157
101st Congress

An Act

Nov. 17, 1989
[H.R. 2710]

To amend the Fair Labor Standards Act of 1938 to increase the minimum wage, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fair Labor Standards Amendments of 1989.
Business and industry.
Employment and unemployment.
29 USC 201 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Fair Labor Standards Amendments of 1989".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

SEC. 2. MINIMUM WAGE INCREASE.

Paragraph (1) of section 6(a) (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending March 31, 1990, not less than $3.80 an hour during the year beginning April 1, 1990, and not less than $4.25 an hour after March 31, 1991;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Subsection (s) of section 3 (29 U.S.C. 203(s)) is amended to read as follows:

"(s)(1) 'Enterprise engaged in commerce or in the production of goods for commerce' means an enterprise that—

"(A)(i) has employees engaged in commerce or in the production of goods for commerce, or that has employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person; and

"(ii) is an enterprise whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);

"(B) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises of such institution, a school for mentally or physically handicapped or gifted children, a preschool, elementary or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution, or school is public or private or operated for profit or not for profit); or

"(C) is an activity of a public agency.

"(2) Any establishment that has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise. The sales of such an establishment shall not be included for the purpose of determining the annual gross volume of sales of any enterprise for the purpose of this subsection.".

(b) PRESERVATION OF COVERAGE.— 29 USC 206 note.

(1) IN GENERAL.—Any enterprise that on March 31, 1990, was subject to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) and that because of the amendment made by subsection (a) is not subject to such section shall—

(A) pay its employees not less than the minimum wage in effect under such section on March 31, 1990;

(B) pay its employees in accordance with section 7 of such Act (29 U.S.C. 207); and

(C) remain subject to section 12 of such Act (29 U.S.C. 212).

(2) VIOLATIONS.—A violation of paragraph (1) shall be considered a violation of section 6, 7, or 12 of the Fair Labor Standards Act of 1938, as the case may be.

(c) CONFORMING AMENDMENTS.—

(1) SECTION 13(a).—Section 13(a) (29 U.S.C. 213(a)) is amended by striking out paragraphs (2) and (4).

(2) SECTION 13(g).—Section 13(g) is amended—

(A) by striking out "paragraphs (2) and" and inserting in lieu thereof "paragraph"; and

(B) by striking out ", except that" and all that follows in such subsection and inserting in lieu thereof a period.

(d) TECHNICAL AMENDMENTS.—Section 3(r) (29 U.S.C. 203(r)) is amended—

(1) by inserting "(1)" after "(r)";

(2) by striking out ": *Provided*, That, within" and inserting in lieu thereof a period and "Within";

(3) by redesignating clauses (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(4) by striking out "For purposes of this subsection" and inserting in lieu thereof the following:

"(2) For purposes of paragraph (1)";

(5) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(6) by striking out "public or private or" in subparagraph (A) (as so redesignated).

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on April 1, 1990. 29 USC 203 note.

SEC. 4. PUERTO RICO, VIRGIN ISLANDS, AND AMERICAN SAMOA.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 (29 U.S.C. 205) is amended—

(1) in the first sentence of subsection (a), by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and inserting in lieu thereof "American Samoa";

(2) in the second sentence of subsection (a)—

(A) by striking out "such island or islands" and inserting in lieu thereof "American Samoa"; and

(B) by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa";

(3) by striking out subsection (e); and

(4) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS" and inserting in lieu thereof "AMERICAN SAMOA".

(b) MINIMUM WAGE.—Section 6 (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) in the first sentence, by striking out all that follows "appoint" through the period at the end of the sentence and inserting in lieu thereof "pursuant to sections 5 and 8."; and

(B) by striking out the second sentence; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico who is employed by—

"(A) the United States,

"(B) an establishment that is a hotel, motel or restaurant,

"(C) any other retail or service establishment that employs such employee primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs, or

"(D) any other industry in which the average hourly wage is greater than or equal to $4.65 an hour.

"(2) In the case of any employee in Puerto Rico who is employed in an industry in which the average hourly wage is not less than $4.00 but not more than $4.64, the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1994, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1994.

"(3) In the case of an employee in Puerto Rico who is employed in an industry in which the average hourly wage is less than $4.00, except as provided in paragraph (4), the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1995, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1995.

"(4) In the case of any employee of the Commonwealth of Puerto Rico, or a municipality or other governmental entity of the Commonwealth, in which the average hourly wage is less than $4.00 an hour and who was brought under the coverage of this section pursuant to an amendment made by the Fair Labor Standards Amendments of 1985 (Public Law 99-150), the minimum wage rate applicable to such employee shall be increased on April 1, 1990, and each April 1 thereafter through April 1, 1996, by equal amounts (rounded to the nearest 5 cents) so that the highest minimum wage rate prescribed in subsection (a)(1) shall apply on April 1, 1996.".

(c) WAGE ORDERS.—Section 8 (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa";

(2) by striking out the second sentence of subsection (a);

(3) in the third sentence of subsection (a)—

(A) by striking out "Puerto Rico or the Virgin Islands, or in Puerto Rico and the Virgin Islands," and inserting in lieu thereof "American Samoa"; and

(B) by inserting before the period at the end of the sentence ", and who but for section 6(a)(3) would be subject to the minimum wage requirements of section 6(a)(1)";

(4) in the third sentence of subsection (b)—

(A) by striking out "Puerto Rico or in the Virgin Islands" and inserting in lieu thereof "American Samoa";

(B) by striking out "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "American Samoa"; and

(C) by striking out "section 6(c)" and inserting in lieu thereof "section 6(a)(3)"; and

(5) in the section heading, by striking out "PUERTO RICO AND THE VIRGIN ISLANDS" and inserting in lieu thereof "AMERICAN SAMOA".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 14(b) (29 U.S.C. 214(b)) is amended by striking out "(or in" and all that follows through "section 6(c))" each place it appears in paragraphs (1)(A), (2), and (3).

SEC. 5. TIP CREDIT.

Effective date.

Effective April 1, 1990, the third sentence of section 3(m) (29 U.S.C. 203(m)) is amended by striking out "in excess of 40 per centum of the applicable minimum wage rate," and inserting in lieu thereof "in excess of (1) 45 percent of the applicable minimum wage rate during the year beginning April 1, 1990, and (2) 50 percent of the applicable minimum wage rate after March 31, 1991,".

SEC. 6. TRAINING WAGE.

29 USC 206 note.

(a) IN GENERAL.—

(1) AUTHORITY.—Any employer may, in lieu of the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206), pay an eligible employee the wage prescribed by paragraph (2)—

(A) while such employee is employed for the period authorized by subsection (g)(1)(B)(i), or

(B) while such employee is engaged in on-the-job training for the period authorized by subsection (g)(1)(B)(ii).

(2) WAGE RATE.—The wage referred to in paragraph (1) shall be a wage—

(A) of not less than $3.35 an hour during the year beginning April 1, 1990; and

(B) beginning April 1, 1991, of not less than $3.35 an hour or 85 percent of the wage prescribed by section 6 of such Act, whichever is greater.

(b) WAGE PERIOD.—An employer may pay an eligible employee the wage authorized by subsection (a) for a period that—

(1) begins on or after April 1, 1990;

(2) does not exceed the maximum period during which an employee may be paid such wage as determined under subsection (g)(1)(B); and

(3) ends before April 1, 1993.

(c) WAGE CONDITIONS.—No eligible employee may be paid the wage authorized by subsection (a) by an employer if—

(1) any other individual has been laid off by such employer from the position to be filled by such eligible employee or from any substantially equivalent position; or

(2) such employer has terminated the employment of any regular employee or otherwise reduced the number of employees with the intention of filling the vacancy so created by hiring an employee to be paid such wage.

(d) LIMITATIONS.—

(1) EMPLOYEE HOURS.—During any month in which employees are to be employed in an establishment under this section, the proportion of employee hours of employment to the total hours of employment of all employees in such establishment may not exceed a proportion equal to one-fourth of the total hours of employment of all employees in such establishment.

(2) DISPLACEMENT.—

(A) PROHIBITION.—No employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in subsection (a).

(B) DISQUALIFICATION.—If the Secretary determines that an employer has taken an action in violation of subparagraph (A), the Secretary shall issue an order disqualifying such employer from employing any individual at such wage.

(e) NOTICE.—Each employer shall provide to any eligible employee who is to be paid the wage authorized by subsection (a) a written notice before the employee begins employment stating the requirements of this section and the remedies provided by subsection (f) for violations of this section. The Secretary shall provide to employers the text of the notice to be provided under this subsection.

(f) ENFORCEMENT.—Any employer who violates this section shall be considered to have violated section 15(a)(3) of the Fair Labor Standards Act of 1938 (29 U.S.C. 215(a)(3)). Sections 16 and 17 of such Act (29 U.S.C. 216 and 217) shall apply with respect to the violation.

(g) DEFINITIONS.—For purposes of this section:

(1) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means with respect to an employer an individual who—

(i) is not a migrant agricultural worker or a seasonal agricultural worker (as defined in paragraphs (8) and (10) of section 3 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1802 (8) and (10)) without regard to subparagraph (B) of such paragraphs and is not a nonimmigrant described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a));

(ii) has not attained the age of 20 years; and

(iii) is eligible to be paid the wage authorized by subsection (a) as determined under subparagraph (B).

(B) DURATION.—

(i) An employee shall initially be eligible to be paid the wage authorized by subsection (a) until the employee has been employed a cumulative total of 90 days at such wage.

(ii) An employee who has been employed by an employer at the wage authorized by subsection (a) for the period authorized by clause (i) may be employed by any other employer for an additional 90 days if the employer meets the requirements of subsection (h).

(iii) The total period, as authorized by clauses (i) and (ii), that an employee may be paid the wage authorized by subsection (a) may not exceed 180 days.

(iv) For purposes of this subparagraph, the term "employer" means with respect to an employee an employer who is required to withhold payroll taxes for such employee.

(C) PROOF.—

(i) IN GENERAL.—An individual is responsible for providing the requisite proof of previous period or periods of employment with other employers. An employer's good faith reliance on the proof presented to the employer by an individual shall constitute a complete defense to a charge that the employer has violated subsection (b)(2) with respect to such individual.

(ii) REGULATIONS.—The Secretary of Labor shall issue regulations defining the requisite proof required of an individual. Such regulations shall establish minimal requirements for requisite proof and may prescribe that an accurate list of the individual's employers and a statement of the dates and duration of employment with each employer constitute requisite proof.

(2) ON-THE-JOB TRAINING.—The term "on-the-job training" means training that is offered to an individual while employed in productive work that provides training, technical and other related skills, and personal skills that are essential to the full and adequate performance of such employment.

(h) EMPLOYER REQUIREMENTS.—An employer who wants to employ employees at the wage authorized by subsection (a) for the period authorized by subsection (g)(1)(B)(ii) shall—

(1) notify the Secretary annually of the positions at which such employees are to be employed at such wage,

(2) provide on-the-job training to such employees which meets general criteria of the Secretary issued by regulation after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives and other interested persons,

(3) keep on file a copy of the training program which the employer will provide such employees, Records.

(4) provide a copy of the training program to the employees,

(5) post in a conspicuous place in places of employment a notice of the types of jobs for which the employer is providing on-the-job training, and

(6) send to the Secretary on an annual basis a copy of such notice.

The Secretary shall make available to the public upon request notices provided to the Secretary by employers in accordance with paragraph (6). Public information.

(i) REPORT.—The Secretary of Labor shall report to Congress not later than March 1, 1993, on the effectiveness of the wage authorized by subsection (a). The report shall include—

(1) an analysis of the impact of such wage on employment opportunities for inexperienced workers;

(2) any reduction in employment opportunities for experienced workers resulting from the employment of employees under such wage;

(3) the nature and duration of the training provided under such wage; and

(4) the degree to which employers used the authority to pay such wage.

SEC. 7. MAXIMUM HOUR EXEMPTION FOR EMPLOYEES RECEIVING REMEDIAL EDUCATION.

Section 7 (29 U.S.C. 207) is amended by adding at the end thereof the following new subsection:

"(q) Any employer may employ any employee for a period or periods of not more than 10 hours in the aggregate in any workweek in excess of the maximum workweek specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if during such period or periods the employee is receiving remedial education that is—

"(1) provided to employees who lack a high school diploma or educational attainment at the eighth grade level;

"(2) designed to provide reading and other basic skills at an eighth grade level or below; and

"(3) does not include job specific training.".

2 USC 60k.

SEC. 8. APPLICATION OF RIGHTS AND PROTECTIONS OF FAIR LABOR STANDARDS ACT OF 1938 TO CONGRESSIONAL AND ARCHITECT OF THE CAPITOL EMPLOYEES.

(a) HOUSE EMPLOYEES.—

(1) IN GENERAL.—Not later than 180 days after the date the minimum wage rate prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is increased pursuant to the amendment made by section 2, the rights and protections under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) shall apply with respect to any employee in an employment position in the House of Representatives and to any employing authority of the House of Representatives.

(2) ADMINISTRATION.—In the administration of this subsection, the remedies and procedures under the Fair Employment Practices Resolution shall be applied. As used in this paragraph, the term "Fair Employment Practices Resolution" means House Resolution 558, One Hundredth Congress, agreed to October 4, 1988, as continued in effect by House Resolution 15, One Hundred First Congress, agreed to January 3, 1989.

(b) ARCHITECT OF THE CAPITOL EMPLOYEES.—Not later than 180 days after the date the minimum wage rate prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is increased pursuant to the amendment made by section 2, the rights and protections under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) shall apply with respect to individuals employed under the Office of the Architect of the Capitol.

SEC. 9. CIVIL PENALTIES FOR VIOLATIONS.

Section 16(e) (29 U.S.C. 216(e)) is amended—

(1) in the first sentence, by inserting after "or any regulation issued under that section," the following: "or any person who repeatedly or willfully violates section 6 or 7"; and

(2) in paragraph (3), by adding after "section 15(a)(4)" the following: "or a repeated or willful violation of section 15(a)(2)".

Approved November 17, 1989.

LEGISLATIVE HISTORY—H.R. 2710 (S. 1182):

HOUSE REPORTS: No. 101-260, Pt. 1 (Comm. on Education and Labor).
SENATE REPORTS: No. 101-117 accompanying S. 1182 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 1, considered and passed House.
Nov. 6-8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 17, Presidential remarks and statement.

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Public Law 101-158
101st Congress

An Act

Nov. 17, 1989
[H.R. 3287]

To waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Revenue Bond Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1989".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.

Effective date.

(a) WAIVER.—The District of Columbia acts described in subsection (b) shall, if enacted by the Council of the District of Columbia, take effect on the date of the enactment of this Act, notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act or any provision to the contrary in those acts.

(b) CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.—The District of Columbia acts authorizing the issuance, sale, and delivery of District of Columbia revenue bonds referred to in subsection (a) are as follows:

(1) The Howard University Revenue Bond Act of 1989 (District of Columbia Bill 8-299, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for the issuance of bonds under such act may not exceed $82,850,000.

(2) The National Rehabilitation Hospital, Inc. Revenue Bond Act of 1989 (District of Columbia Bill 8-298, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $48,300,000.

(3) The Association of American Medical Colleges Revenue Bond Act of 1989 (District of Columbia Bill 8-258, introduced in the Council of the District of Columbia April 27, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $39,000,000.

(4) The Catholic University of America Revenue Bond Act of 1989 (District of Columbia Bill 8-300, introduced in the Council of the District of Columbia May 30, 1989) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $13,000,000.

Approved November 17, 1989.

LEGISLATIVE HISTORY—H.R. 3287:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 2, considered and passed House.
Nov. 3, considered and passed Senate.

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Public Law 101-159
101st Congress

Joint Resolution

Nov. 17, 1989
[H.J. Res. 425]

Designating November 12 through 18, 1989, as "Community Foundation Week".

Whereas the citizens of the United States have a strong tradition of contributing generously to the well-being of their communities and the Nation;

Whereas community foundations are tax-exempt organizations formed to attract endowment funds and to distribute foundation earnings to further the well-being of their communities;

Whereas these earnings are distributed by volunteer boards of directors who are knowledgeable of their communities' needs in areas such as education, arts and culture, social services, economic development, health, the environment, and civic affairs;

Whereas community foundations augment the effectiveness of public and other private services by providing essential coordination to these efforts, and address community needs by providing leadership and resources on a permanent basis;

Whereas community foundations are in their 75th year of existence in the United States, and are the fastest growing form of philanthropy today;

Whereas there are now more than 300 community foundations in the United States with total assets of over $4,750,000,000; and

Whereas the Nation's citizens who generously support philanthropic and charitable organizations should be highly commended and encouraged to increase and perpetuate private voluntary contributions to community foundations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 12 through 18, 1989, is designated as "Community Foundation Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 17, 1989.

LEGISLATIVE HISTORY—H.J. Res. 425 (S.J. Res. 216):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 27, S.J. Res. 216 considered and passed Senate.
Oct. 31, H.J. Res. 425 considered and passed House.
Nov. 3, considered and passed Senate.
Nov. 7, S.J. Res. 216 considered and passed House.

Public Law 101-160
101st Congress

Joint Resolution

Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 20, 1989, as "National Military Families Recognition Day".

Nov. 17, 1989
[S.J. Res. 215]

Whereas Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas in times of war and military action military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 68 percent of officers and 48 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses or children) account for more than two million seven hundred thousand of the more than four million eight hundred thousand in the active duty community, and spouses and children of members of the Reserves in paid status account for more than one million five hundred thousand of the more than two million seven hundred thousand in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly five hundred thousand and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation; and

(2) November 20, 1989, is designated as "National Military Families Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved November 17, 1989.

LEGISLATIVE HISTORY—S.J. Res. 215:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 27, considered and passed Senate.
Nov. 7, considered and passed House.

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Public Law 101-161
101st Congress

An Act

Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 21, 1989
[H.R. 2883]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1990, and for other purposes; namely:

Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,789,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

FARM AND EXPORT PROGRAMS

For development of a plan by the Secretary for returning the use of the Commodity Credit Corporation to its primary function which was to buy and sell competitively to enable the farmer to offset high American costs and to maintain his fair share of world markets; and to restore the use of section 32 (30 per centum of customs receipts) as authorized by law, the use of which is presently suspended, to enable the farmer to secure his income from the user of his products rather than the U.S. Treasury and to enable the American farmer to regain and retain, by competitive sales, our normal share of world markets, $400,000.

COMPILATION OF METHODS USED BY FOREIGN COUNTRIES TO PROTECT THEIR DOMESTIC AGRICULTURE

To enable the Secretary of Agriculture to investigate and compile a listing of the laws and practices used by foreign countries to protect their domestic agriculture from foreign competition and to expand their foreign markets in order to assist the Department in regaining and retaining our fair share of world markets, $400,000.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $397,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $4,554,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $470,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $49,467,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided*, That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $23,033,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,494,000: *Provided*, That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $20,000,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $22,020,000 and in addition, for payment of the USDA share of the National Communications System, $2,000; making a total of $22,022,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $414,000.

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,964,000 including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000, may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, $542,000.

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $479,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $52,053,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $21,828,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $454,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $51,102,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225):

Provided further, That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $67,901,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,936,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $438,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $592,339,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall

7 USC 2254.

7 USC 2254.

not be in excess of $400 annually: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $750,000, and except for ten buildings to be constructed or improved at a cost not to exceed $450,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the foregoing limitations on purchase of land shall not apply to the purchase of land at Corvallis, Oregon; Weslaco, Texas; and Kimberly, Idaho: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000.

BUILDINGS AND FACILITIES

20 USC 191 note.

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $10,675,000: *Provided,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities: *Provided further,* That funds recovered in satisfaction of judgment at the Plum Island Animal Disease Center shall be available and augment funds appropriated in a prior fiscal year for construction at Plum Island Animal Disease Center and be used for construction necessary to consolidate research and operations at the Center and for renovation of the Beltsville Agricultural Research Center.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $157,045,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $17,500,000 for grants for cooperative forestry research under the Act approved

October 10, 1962 (16 U.S.C. 582a–582-a7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $25,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95–113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges including Tuskegee University; $56,543,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $43,066,000 for competitive research grants including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $325,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $5,368,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178); and section 1472 of the Food and Agricultural Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $6,004,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,750,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $3,152,000 for grants to States for the operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $4,450,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701–4710); and $13,507,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $341,994,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $45,686,000.

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said

Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $244,094,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000; payments for the urban gardening program under section 3(d) of the Act, $3,500,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $2,580,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93-471, $953,000; payments for a groundwater quality program under section 3(d) of the Act, $5,250,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; for special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100-219, $3,350,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978 under 3(d) of the Act, $2,765,000 and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $22,000,000; in all, $363,146,000, of which not less than $79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscai year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $8,811,000, of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $14,883,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $675,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further*, That $385,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3818).

Office of the Assistant Secretary for Marketing and Inspection Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $427,000.

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $352,182,000, of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further*, That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

21 USC 129.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $13,422,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $422,799,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $8,185,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,714,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

Agricultural Marketing Service

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $33,171,000; of which not less than $1,623,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $37,962,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $8,007,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,250,000.

Office of Transportation

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,397,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,562,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $419,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241–273); and laws pertaining to the Commodity Credit Corporation, not to exceed $632,588,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursement.

CORPORATIONS

Contracts.

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $225,626,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $162,939,000, of which $28,862,000 is to reimburse the Federal Crop Insurance Corporation Fund for agents' commission and loss adjustment obligations incurred during prior years, but not previously reimbursed, as provided for under the provisions of section 516(a) of the Act.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1990, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $4,800,000,000 in the President's fiscal year 1990 Budget Request (H. Doc. 101-4)), but not to exceed $4,233,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11).

Such funds are appropriated to reimburse the Corporation to restore losses incurred during prior fiscal years. Such losses for fiscal years 1988 and 1989 include $1,969,000,000 in connection with carrying out the Export Enhancement Program (EEP), $264,000,000 in connection with carrying out the Targeted Export Assistance Program (TEA), $1,500,000,000 in connection with carrying out the Federal Crop Insurance Program, and $31,831,000,000 in connection with carrying out the commodity programs.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,415,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments. Reports.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $424,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $1,932,490,000, of which not less than $1,881,920,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales, and for loans to finance sales or transfers to nonprofit organizations or public agencies of not more than 5,000 rental units related to prepayment; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $300,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided,* That of this amount not less than $124,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That $170,310,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further,* That agreements entered into or renewed during fiscal year 1990 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1986, 1987, 1988 and 1989, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $1,317,000 as authorized by section 521(c) of the Act, also including not to exceed $5,000,000 for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act; $2,677,897,000. For an additional amount as authorized by section 521(c) of the Act, such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $569,000,000, of which $13,500,000 shall not become available for obligation until October 1, 1990, (for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119, September 29, 1987), to the extent that this action has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, such transfer is a necessary (but secondary) result of a significant policy change) and $475,500,000 shall be guaranteed loans; $7,000,000 for water development, use, and conservation loans, of which $1,500,000 shall be guaranteed loans; operating loans, $3,500,000,000, of which $2,600,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; and for matching grants authorized by section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101–5106), $3,500,000.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $4,120,159,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $430,190,000, of which $75,000,000 shall be for guaranteed loans; guaranteed industrial development loans, $95,700,000; and community facility loans, $119,700,000, of which $24,000,000 shall be for guaranteed loans.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,474,499,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $19,500,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $2,000,000 and from funds appropriated to this account, $17,500,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $209,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $11,000,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,750,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $16,500,000: *Provided,* That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance for rural communities needing improved passenger transportation systems or facilities in order to promote economic development: *Provided further,* That $1,250,000 shall be available for grants to statewide private, non-profit public television systems in predominately rural States, to provide information and services on rural economics and agriculture.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III-A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $422,934,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $3,234,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That notwithstanding any other provision of law, $1,000,000 of this appropriation shall be available solely to carry out the Lower Mississippi Delta Development Act as incorporated by reference in Public Law 100-460, that all funds appropriated to carry out the purposes of the Lower Mississippi Delta Development Act shall be available for obligation and expenditure through September 30, 1990, or the date of expiration of the Commission, whichever shall occur first, and that notwithstanding section 10(a) of the Delta Development Act, the date for the submission of the Commission's interim report is extended to October 16, 1989: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

42 USC 3121 note.
Reports.

7 USC 1981a note.

Securities.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1989 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1990, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $244,100,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

Contracts.

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1990 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,329,000.

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

Grants.
Loans.

For grants and loans authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $5,000,000, to remain available until expended: *Provided*, That this amount will be in addition to any amounts generated by the interest differential on voluntary cushion of credit payments made by REA borrowers.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $[illegible]4,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1990, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of

the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $31,124,000: *Provided,* That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank: *Provided further,* That not less than $500,000 of this appropriation shall be expended to provide community and economic development technical assistance by Rural Electrification Administration employees to rural electric and telephone systems, and that such technical assistance program be made available within ninety days of enactment.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $445,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $481,000,000, of which not less than $5,494,000 is for snow survey and water forecasting and not less than $7,234,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $355,000,000 is for personnel compensation and benefits: *Provided further,* That except for $1,841,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C.

16 USC 590e-1.

Public buildings and grounds.

590a–590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

Employment and unemployment.
16 USC 590e–2.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $12,292,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $8,824,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $182,373,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $27,620,000: *Provided,* That $600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,884,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q, and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510)), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $184,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $12,371,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $10,420,000, to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

Contracts.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), $1,010,978,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, for annual rental payments provided in such contracts, and for technical assistance: *Provided*, That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $412,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789); $4,887,494,000, to remain available through September 30, 1991, of which $730,940,000 is hereby appropriated and $4,156,554,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): 42 USC 1776a. *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of 42 USC 1776b. Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allo- Claims. cated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from Reports. funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $3,600,000 shall be available for independent verification of school food service claims: *Provided further,* That $500,000 shall be available to establish the Food Service Management Institute at the University of Mississippi.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $20,449,000, to remain available through September 30, 1991. Claims. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $2,126,000,000, to remain available through September 30, 1991, of which up to $2,000,000 may be used to carry out the farmer's market coupon demonstration project.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $65,028,000: *Provided,* That funds provided herein shall remain available through September 30, 1991: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $15,707,096,000: *Provided,* That funds provided herein shall remain available through September 30, 1990, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $936,750,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028, of which not to exceed $10,825,000 is available for the Cattle Tick Eradication Project.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the

Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $206,510,000.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $40,000,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Temporary Emergency Food Assistance Act of 1983, as amended by section 104 of the Hunger Prevention Act of 1988, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $93,026,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $9,145,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $102,529,000: *Provided,* That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AGRICULTURAL TRADE MISSIONS

For necessary expenses for agricultural aid and trade missions as authorized by Public Law 100-202, $200,000.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $860,955,000, of which $309,900,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $682,100,000, of which $682,100,000 is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title to this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $6,118,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $875,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $560,271,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That of the sums provided herein, not to exceed $2,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment of facilities of or used by the Food and Drug Administration, where not otherwise provided, $8,350,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug

Administration which are included in this Act, $25,612,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued in fiscal year 1990, as authorized, $90,000,000: *Provided,* That not to exceed $2,206,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further,* That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

12 USC 2278a-3 note.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $37,691,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $36,120,000 (from assessments collected from farm credit system institutions and the Federal Agricultural Mortgage Corporation), shall be available for administrative expenses as authorized under 12 U.S.C. 2249, of which not to exceed $1,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

Contracts.
Public information.

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1990 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 514 passenger motor vehicles, of which 508 shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901-5902).

7 USC 1623a.

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

Drugs and drug abuse.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, $5,000,000 for the Grasshopper and Mormon Cricket Control Programs, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities, and up to $10,000,000 of funds made available for construction at the Beltsville Agricultural Research Center; Cooperative State Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

Government organization and employees.
Disaster assistance.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

Sec. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

Sec. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

Sec. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Securities.

Sec. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

Sec. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

Sec. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

Commerce and trade.

Sec. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

7 USC 612c note.

Sec. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

Polish People's Republic.
Loans.
President of U.S.
Reports.

Sec. 620. During fiscal year 1990, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1989 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

Flood control.

SEC. 622. In fiscal year 1990, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

Animals.
Health care professionals.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 7,500; Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1990 shall be first offered to the borrowers for prepayment.

SEC. 633. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $200,000,000.

SEC. 634. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $1,000,000,000 in the President's fiscal year 1990 Budget Request (H. Doc. 101-4)) if the aggregate amount of funds and/or commodities under such program exceeds $770,000,000.

SEC. 635. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 636. In fiscal years 1990 and 1991, $30,000,000 of section 32 funds shall be used to purchase sunflower and cottonseed oil, as authorized by law, and such purchases to facilitate additional sales of such oils in world markets at competitive prices, so as to compete with other countries: *Provided*, That these funds shall be in addition to funds made available for this purpose by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460).

Government organization and employees.
Wages.

SEC. 637. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 638. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 639. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 25 per centum of total direct costs under each award.

Sugar.
Philippines.
Exports.

SEC. 640. Within 30 days of the enactment of this section the Secretary of Agriculture may establish and operate a program for fiscal year 1990 as follows:

(a) The Secretary shall make available to sugar refiners, operators and processors commodities acquired by the Commodity Credit Corporation at such levels as the Secretary determines necessary to permit such refiners, operators or processors to purchase in the amounts specified below raw sugar grown in the Republic of the Philippines and countries designated as beneficiary countries pursuant to section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) at prices equivalent to the market price for raw cane sugar in the United States on the condition that an equivalent amount of sugar refined in the United States is exported to world markets within 60 days. The Secretary shall make such commodities available on the basis of competitive bids and shall have discretion to accept or reject bids under such criteria as the Secretary determines appropriate. Generic certificates shall be issued in lieu of commodities acquired by the Commodity Credit Corporation under the program established under this section.

Imports.

(b) The Secretary shall make available sufficient commodities to permit the importation of no less than 290,000 short tons of sugar, raw value, from the beneficiary countries specified in subsection (a), and no less than 110,000 short tons of sugar, raw value, from the Republic of the Philippines. Sugar imported under the program authorized under this section shall be in addition to any sugar quota level established for the countries specified in subsection (a) pursuant to headnote 3 of schedule 1, part 10, subpart A of the Tariff Schedules of the United States (9 U.S.C. 1202).

Tariff Schedules of the U.S.

(c) In order to maximize the number of competing bidders, the Secretary shall, in determining the low bidders in the program established under this section, make appropriate adjustments in bids received from sugar refiners, operators and processors to reflect differing transportation costs based on refinery and factory location.

(d) The program authorized under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(f) Nothing in this section shall be deemed to increase the appropriation for any program administered by the United States Department of Agriculture.

Reports.
7 USC 2207a.

SEC. 641. (a)(1) Not later than 20 days after the end of each fiscal year, the Secretary of Agriculture shall (A) submit to Congress a report on the amounts obligated and expended by the Department during that fiscal year for the procurement of advisory and assistance services, and (B) transmit a copy of such report to the Comptroller General of the United States.

(2) Each report submitted under paragraph (1) shall include a list with the following information:

(A) All contracts awarded for the procurement of advisory and assistance services during the fiscal year and the amount of each contract.

(B) The purpose of each contract.

(C) The justification for the award of each contract and the reason the work cannot be performed by civil servants.

(b) The Comptroller General of the United States shall review the reports submitted under subsection (a) and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such reports.

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 2883:

HOUSE REPORTS: No. 101-137 (Comm. on Appropriations) and No. 101-361 (Comm. of Conference).
SENATE REPORTS: No. 101-84 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 18, considered and passed House.
July 27, considered and passed Senate, amended.
Nov. 16, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 21, Presidential statement.

O

39-139 O - 89 (161)

PUBLIC LAW 101-162—NOV. 21, 1989

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

39-139 O - 89 - 1 (162)

Public Law 101-162
101st Congress

An Act

Nov. 21, 1989
[H.R. 2991]

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990.
Department of Commerce Appropriations Act, 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $2,000 for official entertainment, $28,173,000, of which not to exceed $1,467,000 shall be available for the Office of the General Counsel.

Office of the Inspector General

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3 as amended by Public Law 100-504), $13,500,000.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $101,288,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $1,322,967,000, to remain available until expended.

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $31,150,000.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $191,196,000, of which, notwithstanding any other provision of law $11,350,000 shall be used to make or complete each grant designated in Public Law 100-459 in subsections (a), (c), (h), (i), (k), and (l) under the heading "Economic Development Assistance Programs" which has not been made and for which pre-application or applications have been filed: *Provided*, That during fiscal year 1990 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That the Secretary of Commerce or his designees shall not promulgate or enforce any rule, regulation, or grant agreement provision affecting programs authorized by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regulation, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations, and provisions in effect prior to December 22, 1987.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $25,475,000 of which not to exceed $494,000 shall be available for the Office of Chief Counsel: *Provided*, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977: *Provided further*, That notwithstanding any other provision of law, not to exceed $4,016,618 of the funds appropriated by this Act for "Economic Development Assistance Programs" shall be available for the purpose of paying the Economic Development Administration for any debt that arises due to the expenditure of funds under grant number 06-19-01498 as described in Inspector General Final Audit Report No. D-184-8-024 and that none of the funds appropriated by this Act shall delay or otherwise adversely affect any grant application for fiscal year 1990 by the City of Chicago as a result of negotiations on the grant described in such audit report: *Provided further*, That none of the funds appropriated by this Act shall be available to enable the Economic Development Administration, Department of Commerce, to delay or otherwise adversely affect any grant application for fiscal year 1990 by the State of Oregon, or to which the State of Oregon will contribute funds, on the basis that the contribution by the State of Oregon does not conform with law or regulation. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1990, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date: *Provided further,* That none of the funds may be used to formulate or implement any action, activity, guideline, program, project, policy or regulation which alters the practice of making grants directly to planning and development districts which was in effect on December 31, 1988, or which results in denial of funding to any planning and development district on the basis of the number of years such district has received economic development assistance program funding or on the basis of the geographic area such district encompasses or on the basis of the population situated in the geographic area such district encompasses or a combination of any of these factors.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and including demonstrating new alternatives to providing services domestically and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and implementation of section 406(b) of the U.S.-Canada Free-Trade Agreement Implementation Act of 1988, notwithstanding section 406(b)3 of said Act; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $300,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $181,296,000, to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment of assessments for services provided as part of these activities: *Provided further,* That of the funds provided in this Act or any previous Acts for the International Trade Administration Trade Adjustment Assistance Program including those amounts provided in advance to recipient organizations which remain unexpended or which have been obligated or reserved for fiscal year 1990 expenses, including close out costs, by those organizations as of October 1, 1989, not to exceed $10,877,000 shall be available for the Trade

Adjustment Assistance Program during fiscal year 1990. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight. 19 USC 2171 note.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $42,000,000, to remain available until expended, of which $1,000,000, including $775,000 previously appropriated, shall be available for additional regional export control assistance offices to be located in the Northern California area, in Portland, Oregon, and in the Boston/Nashua area: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,741,000, of which $25,321,000 shall remain available until expended: *Provided,* That not to exceed $14,420,000 shall be available for program management for fiscal year 1990.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $12,000 for representation expenses abroad; $14,300,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

33 USC 851. For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 31 U.S.C. 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; and alteration, modernization, and relocation of facilities as authorized by 31 U.S.C. 883i; $1,214,607,000, to remain available until expended, of which $1,500,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $377,000 shall be available only for a semi-tropical research facility located at Key Largo, Florida; and in addition, $30,000,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $55,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $4,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant
33 USC 883k. management and related activities: *Provided further,* That for fiscal year 1990 and hereafter funds appropriated under this heading shall be available for acquisition of land for facilities.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $2,000,000, to remain available until expended, shall be made available as authorized by said Act.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,000,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980(b) and 1980(f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $736,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,986,000, to remain available until expended.

Patent and Trademark Office

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, and including defense of suits instituted against the Commissioner of Patents and Trademarks; $85,900,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

Technology Administration

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $3,900,000.

National Institute of Standards and Technology

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the core programs of the National Institute of Standards and Technology, $144,809,000, to remain available until expended, of which not to exceed $3,430,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $1,300,000 shall be available for construction of research facilities; and in addition for grants for regional centers for the transfer of manufacturing technology as authorized by section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $7,500,000, to remain available until expended; and in addition for expenses of the Advanced Technology Program as authorized by section 5131 of the Omnibus Trade and Competitiveness Act of 1988, $10,000,000, to remain available until expended; and in addition for technology transfer extension services pursuant to section 5121 of the Omnibus Trade and Competitiveness Act of 1988, $1,300,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $14,200,000 of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,000,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided,* That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interest to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

Gifts and property.
Research and development.
15 USC 278d note.

SEC. 104. Hereafter, the National Institute of Standards and Technology is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

SEC. 105. None of the funds appropriated in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

This title may be cited as the "Department of Commerce Appropriations Act, 1990".

TITLE II—DEPARTMENT OF JUSTICE

Department of Justice Appropriations Act, 1990.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $87,439,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $20,673,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,500,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $257,000,000, of which not to exceed $5,751,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1991: *Provided*, That of the funds available in this appropriation, not to exceed $12,160,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration: *Provided further*, That for fiscal year 1990 and hereafter the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That for fiscal year 1990 and hereafter the Attor-

28 USC 509 note.

ney General may establish and collect fees to cover the cost of identifying, copying and distributing copies of tax decisions rendered by the Federal Judiciary and that any such fees shall be credited to this appropriation notwithstanding the provisions of 31 U.S.C. 3302: *Provided further,* That, notwithstanding any other provision of law, not to exceed $1,000,000 for expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgments awarded under the Act.

50 USC app. 1989b-3 note.

Subject to the provisions of section 104(e) of the Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989 (b-3(e)), the maximum amount authorized under such section for any fiscal year is appropriated, from money in the Treasury not otherwise appropriated, for each fiscal year beginning on or after October 1, 1990, to the Civil Liberties Public Education Fund established by section 104(a) of the Civil Liberties Act of 1988, for payments to eligible individuals under section 105 of that Act.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $32,222,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $444,862,000, of which not to exceed $5,000,000 shall be available until September 30, 1991, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $60,729,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

22 USC 1622d note.

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $440,000: *Provided,* That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for: allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $217,027,000 as authorized in Public Law 100-690 (102 Stat. 4513): *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, for fiscal year 1990 and hereafter the Director of the United States Marshals Service may collect fees and expenses for the services authorized by 28 U.S.C. 1921 as amended by Public Law 100-690, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $6,000 shall be available for official reception and representation expenses.

28 USC 1921 note.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $137,034,000, to remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances; $56,784,000, to remain available until expended, of which not to exceed $1,690,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites: *Provided,* That for fiscal year 1990 and hereafter the Attorney General may enter into reimbursable agreements with other Federal Government agencies or components within the Department of Justice to pay expenses of private counsel to defend Federal Government employees sued for actions while performing their official duties: *Provided further,* That for fiscal year 1990 and hereafter the Attorney General, upon notification to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act, may authorize litigating components to reimburse this account for expert witness expenses when it appears current allocations will be exhausted for cases scheduled for trial in the current fiscal year.

28 USC 509 note.

28 USC 509 note.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $29,334,000, of which not to exceed $21,500,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided*, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F) and (G), as amended, $75,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $168,560,000: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That appropriations under this heading may be used to reimburse agencies for any costs incurred by Organized Crime Drug Enforcement Task Forces between October 1, 1989, and the date of enactment of this Act: *Provided further*, That section 506(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by adding "or 0.25 percent, whichever is greater," after "$500,000". 42 USC 3756.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,730 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,423,340,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1991; of which not to exceed $8,000,000 for research and development related to investigative activities and $15,000,000 for construction of Pod B of the Engineering Research Facility at Quantico, Virginia, shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: *Provided*, That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: *Provided further,* That not to exceed $30,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $7,500,000 for a language translation system shall remain available until expended.

Drug Enforcement Administration

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 703 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $492,180,000, of which not to exceed $1,200,000 for research shall remain available until expended; and of which not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $9,638,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment, shall remain available until September 30, 1991: *Provided,* That not to exceed $30,000 shall be available for official reception and representation expenses.

Immigration and Naturalization Service

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 620, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $828,300,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That for fiscal year 1990 and hereafter capital assets acquired by the Immigration Legalization account may be made available for the general use of the Immigration and Naturalization Service after they are no longer needed for immigration legalization purposes: *Provided further,* That title 8, United States Code, section 1356(n) is amended by deleting "in excess of $50,000,000" after "Immigration Examinations Fee Account," and by deleting "At least annually, deposits in the amount of $50,000,000 shall be transmitted from the 'Immigration Examinations Fee Account' to the General Fund of the Treasury of the United States": *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses.

8 USC 1255a note.

IMMIGRATION EMERGENCY FUND

For necessary expenses of the immigration emergency fund as authorized by section 404(b) of the Immigration and Nationality Act, $35,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 159 of which 55 are for replacement only) and hire of law enforcement and passenger motor vehicles; $1,097,631,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $3,000 shall be available for official reception and representation expenses.

42 USC 250a.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, $10,112,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $401,332,000, to remain available until expended: *Provided,* That labor of United States Prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

Contracts.

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,857,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

Office of Justice Programs

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended by the Anti-Drug Abuse Act of 1988, including salaries and expenses in connection therewith, $90,783,000, to remain available until expended as authorized by section 6093 and 7289 of Public Law 100-690 (102 Stat. 4339-4340 and 4461).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including salaries and expenses in connection therewith, $150,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $64,193,000, to remain available until expended as authorized by section 7265 of Public Law 100-690 (102 Stat. 4448 and 4449), of which $350,000 is for expenses authorized by section 241(f) of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, and of which $2,000,000 is for expenses authorized by part D of title II of said Act.

Federal Register, publication.
State and local governments.

Grants.
State and local governments.

In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1989, through September 30, 1990, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided*, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1990, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further*, That the Attorney General, not later than April 1, 1990, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further*, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, $25,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

General Provisi[illegible]—Department of Justice

Sec. 201. A total of not to exceed $30,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

23 USC 114 note.

Sec. 202. During fiscal year 1990 and hereafter, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

28 USC 509 note.

Sec. 203. For fiscal year 1990 and hereafter, appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

Sec. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1990, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the

Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

Reports.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

28 USC 533 note.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1990—

(i) submit the results of such audit in writing to the Attorney General, and

Reports.

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

Reports.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

28 USC 533 note.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

Abortion.
Courts, U.S.

SEC. 205. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

Abortion.

SEC. 206. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 207. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided*, That nothing in this section in any way diminishes the effect of section 206 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 208. Section 6077(c) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4325) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

21 USC 881 note.

SEC. 209. (a) The Civil Liberties Act of 1988 (Public Law 100-383; 50 U.S.C. App. 1989b and following) is amended by adding at the end thereof the following new section:

"SEC. 110. ENTITLEMENTS TO ELIGIBLE INDIVIDUALS.

50 USC app.
1989b-9.

"Subject to sections 104(e) and 105(g) of this title, beginning on October 1, 1990, the payments to be made to any eligible individual under the provisions of this title shall be an entitlement. As used in this section, the term 'entitlement' means 'spending authority' as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974.".

50 USC app.
1989b-4.

(b) Section 105 of the Civil Liberties Act of 1988 is amended by adding at the end thereof the following:

"(g) LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN THE FUND.—

"(1) GENERAL RULE.—An eligible individual may be paid under this section only from amounts in the Fund.

"(2) Coordination with other provisions.—Nothing in this title shall authorize the payment to an eligible individual by the United States Government of any amount authorized by this section from any source other than the Fund.

"(3) Order in which unpaid claims to be paid.—If at any time the Fund has insufficient funds to pay all eligible individuals at such time, such eligible individuals shall, to the extent permitted under paragraph (1), be paid in full in the order specified in subsection (b).".

Sec. 210. Pursuant to the provisions of law set forth in 18 U.S.C. 3071–3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

42 USC 3754.

Sec. 211. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, is amended by striking "1989" and inserting in lieu thereof "1990".

42 USC 3756.

Sec. 212. Section 506(a) of part E of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 375(a)) is amended to read as follows:

State and local governments.

"Sec. 506. (a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.".

This title may be cited as the "Department of Justice Appropriations Act, 1990".

Department of State Appropriations Act, 1990.

TITLE III—DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by

31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,741,239,000, and in addition not to exceed $250,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204). In addition, not to exceed $51,152,000, to remain available until expended, may be transferred to this appropriation from "Acquisition and Maintenance of Buildings Abroad": *Provided,* That the level of service provided through the Foreign Affairs Administrative Support System (FAAS) shall be commensurate with the amounts appropriated, or otherwise made available therefor in appropriations Acts.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $21,000,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and Organization of American States, $4,600,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956, and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $348,100,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,700,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,300,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $106,034,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

22 USC 269a note.

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress $622,000,000: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, including arrearages incurred through fiscal year 1989, $81,500,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations, including arrearages incurred through fiscal year 1989, and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,340,000, to remain available until expended as authorized by 22 U.S.C. 287(e), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 2269 and 4085.

INTERNATIONAL COMMISSIONS

22 USC 269a note.

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operations and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,460,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $11,500,000 to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $9,000 for representation expenses incurred by the International Joint Commission, $4,500,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended, for necessary expenses for international fisheries commissions, not otherwise provided for, $12,300,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 529.

OTHER

U.S. BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, $4,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $13,900,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $900,000 of which $450,000 shall be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,000,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 302. For fiscal year 1992, the Department of State shall submit a budget justification document to the Committees on Appropriations which provides function, subfunction, and object class information for each activity, subactivity, and bureau within the Department.

This title may be cited as the "Department of State Appropriations Act, 1990".

The Judiciary Appropriations Act, 1990.

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, $17,434,000, of which not to exceed $15,000 shall be available for the procurement of an oil portrait of former Chief Justice Warren E. Burger to be placed in the United States Supreme Court Building; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $4,400,000, of which $2,121,000 shall remain available until expended: *Provided*, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended); and for snow removal by hire of men and equipment or under contract, and for the replacement of electrical transformers containing polychlorinated biphenyls, both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5).

40 USC 13a note.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $8,830,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $8,272,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $1,287,424,000 (including the purchase of firearms and ammunition): *Provided,* That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation as authorized by section 407(c) of the Judiciary Appropriation Act, 1987 (Public Law 99-591; 100 Stat. 3341-64): *Provided further,* That of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further,* That, notwithstanding any other provision of law, not to exceed $2,500,000 for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgments awarded under the Act.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $86,687,000, and the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $54,700,000, to remain available until expended: *Provided*, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code: *Provided further*, That for fiscal year 1990 and hereafter, funds appropriated under this heading shall be available for refreshment of jurors.

28 USC 1871 note.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $43,090,000 to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

Administrative Office of the United States Courts

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $33,670,000 of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

Federal Judicial Center

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $12,648,000.

Judicial Retirement Funds

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT FUND

For payment to the Judicial Officers' Retirement Fund, as authorized by Public Law 100-659, and to the Judicial Survivors Annuity Fund, as authorized by Public Law 99-336, $6,500,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $6,520,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

28 USC 1930 note.

SEC. 403. Notwithstanding any other provision of law, for fiscal year 1990 and hereafter, (a) The Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. (b) The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. (c) The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives.

Mail.

Mail.
28 USC 1930 note.

SEC. 404. (a) For fiscal year 1990 and hereafter, such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

(b) JUDICIARY AUTOMATION FUND.—

(1) ESTABLISHMENT AND USE OF FUND.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 612. Judiciary Automation Fund

"(a) ESTABLISHMENT AND AVAILABILITY OF FUND.—There is hereby established in the Treasury of the United States a special fund to be known as the 'Judiciary Automation Fund' (hereafter in this section referred to as the 'Fund'). Moneys in the Fund shall be available to the Director without fiscal year limitation for the procurement (by lease, purchase, exchange, transfer, or otherwise) of automatic data processing equipment for the judicial branch of the United States. The Fund shall also be available for expenses, including personal services and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment in the judicial branch.

"(b) PLAN FOR MEETING AUTOMATIC DATA PROCESSING NEEDS.—

"(1) DEVELOPMENT OF PLAN.—The Director shall develop and annually revise, with the approval of the Judicial Conference of the United States, a long range plan for meeting the automatic data processing equipment needs of the judicial branch. Such plan and revisions shall be submitted to Congress.

"(2) EXPENDITURES CONSISTENT WITH PLAN.—The Director may use amounts in the Fund to procure automatic data processing equipment for the judicial branch of the United States only in accordance with the plan developed under paragraph (1).

"(c) DEPOSITS INTO FUND.—

"(1) DEPOSITS.—There shall be deposited in the Fund—

"(A) all proceeds resulting from activities conducted under subsection (a), including net proceeds of disposal of excess or surplus property and receipts from carriers and others for loss of or damage to property;

"(B) amounts available for activities described in subsection (a) from funds appropriated to the judiciary; and

"(C) any advances and reimbursements required by paragraph (2).

"(2) ADVANCES AND REIMBURSEMENTS.—Whenever the Director procures automatic data processing equipment for any entity in the judicial branch other than the courts or the Administrative Office, that entity shall advance or reimburse the Fund, whichever the Director considers appropriate, for the costs of the automatic data processing equipment, from appropriations available to that entity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund for any fiscal year such sums as are required to supplement amounts deposited under subsection (c) in order to conduct activities under subsection (a).

"(e) CONTRACT AUTHORITY.—

"(1) FOR EACH FISCAL YEAR.—(A) In fiscal year 1990, and in each succeeding fiscal year, the Director may enter into contracts for the procurement of automatic data processing equipment in amounts which, in the aggregate, do not exceed $75,000,000 in advance of the availability of amounts in the Fund for such contracts.

"(2) MULTIYEAR CONTRACTS.—In conducting activities under subsection (a), the Director is authorized to enter into multiyear contracts for automatic data processing equipment for periods of not more than five years for any contract, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and for payment of any costs of cancellation or termination of the contract;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Director determines that—

"(i) the need for the automatic data processing equipment being provided will continue over the period of the contract; and

"(ii) the use of the multi-year contract will yield substantial cost savings when compared with other methods of providing the necessary resources.

"(3) CANCELLATION COSTS OF MULTIYEAR CONTRACT.—Any cancellation costs incurred with respect to a contract entered into under paragraph (2) shall be paid from currently available amounts in the Fund.

"(f) APPLICABILITY OF PROCUREMENT STATUTE.—The procurement of automatic data processing equipment under this section shall be conducted in compliance with section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759).

"(g) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—Nothing in this section shall be construed to limit the authority of the Administrator of General Services under sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759).

"(h) ANNUAL REPORT.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(i) REPROGRAMMING.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, and upon notification to the Committees on Appropriations of the House of Representatives and the Senate, may use amounts deposited into the Fund under subparagraph (c)(1)(B) for purposes other than those established in subsection (a) only by following reprogramming procedures in compliance with provisions set forth in section 606 of Public Law 100-459.

"(j) APPROPRIATIONS INTO THE FUND.—If the budget request of the Judiciary is appropriated in full, the amount deposited into the Fund during any fiscal year under the authority of subparagraph (c)(1)(B) will be the same as the amount of funds requested by the Judiciary for activities described in subsection (a). If an amount to be deposited is not specified by Congress and if the full request is not appropriated, the amount to be deposited under (c)(1)(B) will be set by the spending priorities established by the Judicial Conference.

"(k) DEFINITION.—For purposes of this section, the term 'automatic data processing equipment' has the meaning given that term in section 111(a)(2)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)(A)).

"(l) TERMINATION OF AUTHORITY.—The Fund, and the authorities conferred by this section, terminate on September 30, 1994. All unobligated amounts remaining in the Fund on that date shall be deposited into the 'Judicial Services Account' to be used to reimburse other appropriations.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of title 28, United States Code, is amended by adding at the end the following new item:

"612. Judiciary Automation Fund.".

SEC. 405. Appropriations made in this title which are available for salaries and expenses shall be available, notwithstanding the limitations in 31 U.S.C. section 1345, for the Judicial Conference of the United States to sponsor and host the Fifth International Appellate Judges Conference in the United States, provided that an amount shall be available only if the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of any obligation or expenditure. The Judicial Conference may supplement such appropriations with other funds made available by any department or agency for the purposes of technical foreign aid, educational and cultural programs with the people of foreign countries, or commemorating the bicentennial anniversary of the United States Constitution and the Bill of Rights, provided that any supplementation shall be only for the expenses of the Fifth International Appellate Judges Conference. The Director of the Administrative Office may also accept and utilize gifts of funds, to be deposited as a special deposit account in the Treasury, for the expenses of the Fifth International Appellate Judges Conference for reimbursement of appropriations or direct expenditure, provided that any unexpended balance of the special deposit account shall be returned to the donor or donors. For the purpose of the conference, the Director is authorized to pay for local travel and incidental expenses of foreign participants and dependent members of their immediate household, to pay for per diem to such persons in lieu of subsistence at rates prescribed by the Director, and to conduct and pay for the activities set forth in subsections (1), (2), (9), (15), and (18) of section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. section 1474). Appropriations for commemorating the bicentennial or for salaries and expenses of the Judiciary shall not be made available by this section for the travel and incidental expenses of dependents. Nothing in this section precludes payment for the travel and other expenses of foreign participants and their dependents by any other department or agency, or by the Director on their behalf, as authorized by law.

28 USC 1930 note.

SEC. 406. (a) Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$90" and inserting in lieu thereof "$120". Pursuant to section 1930(b) of title 28, the Judicial Conference of the United States shall prescribe a fee of $60 on motions seeking relief from the automatic stay under 11 U.S.C. section 362(b) and motions to compel abandonment of property of the estate. The fees established pursuant to the preceding two sentences shall take effect 30 days after the enactment of this Act.

28 USC 1931 note.

(b) All fees as shall be hereafter collected for any service enumerated after item 18 of the bankruptcy miscellaneous fee schedule prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. section 1930(b) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and other Judicial Services and the Administrative Office of the United States Courts. The Judicial Conference shall report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis beginning on the first day of each fiscal year regarding the sums deposited in said fund.

Reports.

(c) Section 589a(b)(1) of title 28, United States Code, is amended by striking out "one-third" and inserting in lieu thereof "one-fourth".

(d) Section 1931 of title 28, United States Code, is amended by striking out the following before the colon "as provided in annual appropriation acts".

This title may be cited as "The Judiciary Appropriations Act, 1990".

TITLE V—RELATED AGENCIES

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $225,870,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $65,050,000, to remain available until expended, and in addition $2,250,000 shall be derived from unobligated balances of "Ship Construction": *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $89,000,000, to remain available until expended: *Provided*, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

ADVISORY COMMISSION ON CONFERENCES IN OCEAN SHIPPING

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Conferences in Ocean Shipping, including services as authorized by section 18(d) of Public Law 98-237, $300,000.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $55,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $33,876,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2883), $190,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended.

ISRAEL RELAY STATION

For an additional amount for the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to implement the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America, $183,500,000, to remain available until expended.

Christopher Columbus Quincentenary Jubilee Commission

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $220,000, to remain available until December 31, 1993 as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

Commission on Agricultural Workers

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $300,000, to remain available until expended.

Commission on the Bicentennial of the United States Constitution

SALARIES AND EXPENSES

Contracts.
Grants.

For necessary expenses of the Commission on the Bicentennial of the United States Constitution as authorized by Public Law 98-101 (97 Stat. 719-723), $14,300,000, to remain available until expended, and in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301), and in addition, $705,000 to remain available until expended shall be available to the National Park Service to carry out provisions of Public Law 100-421; in all, appropriating $15,005,000, of which $7,500,000 is for carrying out the provisions of Public Law 99-194, including $3,142,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $4,358,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

Commission on Civil Rights

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided*, That not to exceed $20,000 may be used to employ consultants: *Provided further*, That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further*, That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further*, That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further*, That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further*, That the General Accounting Office shall audit the Commission's use of this appropriation under such terms and conditions as deemed appropriate by the Comptroller General and shall report its findings to the Appropriations Committees of the Senate and House of Representatives. Reports.

Commission for the Preservation of America's Heritage Abroad

SALARIES AND EXPENSES

For necessary start-up costs for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303.

Commission on Security and Cooperation in Europe

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $850,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMMISSION ON THE UKRAINE FAMINE

For necessary close out expenses of the Commission on the Ukraine Famine, $100,000.

Commission for the Study of International Migration and Cooperative Economic Development

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $1,290,000, to remain available until expended.

Competitiveness Policy Council

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by section 5209 of the Omnibus Trade and Competitiveness Act of 1988, $750,000, to remain available until expended.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $184,926,000: *Provided,* That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16(c)(1)–(3)), shall not have effect during fiscal year 1990: *Provided further,* That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed.

Federal Communications Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901–02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $109,000,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1991, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86–484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for non-commercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $15,650,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $54,580,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $39,000,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,350,000; and an amount of Japanese currency not to exceed the equivalent of $1,610,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

Legal Services Corporation

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $321,000,000 of which $274,965,000 is for basic field programs, $7,304,000 is for Native American programs, $10,088,000 is for migrant programs, $1,144,000 is for law school clinics, $1,040,000 is for supplemental field programs, $649,000 is for regional training centers, $7,518,000 is for national support, $8,158,000 is for State support, $900,000 is for the Clearinghouse, $531,000 is for computer assisted legal research regional centers, and $8,703,000 is for Corporation management and administration.

Marine Mammal Commission

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $960,000.

Martin Luther King, Jr. Federal Holiday Commission

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000, to remain available until expended.

Office of the United States Trade Representative

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $18,000,000, of which $1,000,000 shall remain available until expended: *Provided,* That not to exceed $89,000 shall be available for official reception and representation expenses.

Securities and Exchange Commission

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $168,707,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general fund of the Treasury.

15 USC 77f note.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 100-590, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, $242,000,000, of which $500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, and of which $500,000 shall be made available for the establishment of a training program at the East-West Center to assist American businessmen and trade delegations in the Pacific Basin, and of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business and of which $50,000,000 is for grants for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided,* That not more than $350,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, such sums as may be necessary for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund" as authorized by Public Law 100-590.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3 as amended by Public Law 100-504), $7,400,000.

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $77,500,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $82,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note: *Provided*, That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $11,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISIONS

(1) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration, except as provided in paragraph (6), shall be—

"(A) not less than 90 percent of the balance of the financing outstanding at the time of disbursement if such financing does not exceed $155,000: *Provided*, That the percentage of participation by the Administration may be reduced below 90 percent upon request of the participating lender; and

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstanding at the time of disbursement if such financing exceeds $155,000: *Provided*, That the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(ii) not less than 85 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16).

The Administration shall not use the percent of guarantee requested as a criterion for establishing priorities in approving guarantee requests nor shall the Administration reduce the percent guaranteed to less than 85 percent under subparagraph (B) other than by determination made on each application. Notwithstanding subparagraphs (A) and (B), the Administration's participation under the Preferred Lenders Program or any successor thereto shall be not less than 80 percent, except upon request of the participating lender. As used in this subsection, the term 'Preferred Lenders Program' means a program under which a written agreement between the lender and the Administration delegates to the lender (I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the

Administration, and (II) authority to service and liquidate such loans.".

(2) Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19)) is amended to read as follows:

"(19)(A) In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not affect any outstanding guarantee.

"(B) In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, during fiscal years 1989, 1990, and 1991, the Administration shall (i) develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans, and (ii) allow such lenders to retain one-half of the fee collected pursuant to section (7)(a)(18) on such loans. A participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless the amount in excess of $50,000 is an amount not approved under the provisions of this paragraph.".

(3) The last sentence of subparagraph (A) of section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended to read as follows: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration of or give undue recognition to the public official or agency, and the Administration shall ensure that it receives appropriate recognition in all cosponsored printed materials, whether the participant is a profit making concern or a governmental agency or public official.".

(4) Section 303 of the Small Business Investment Act of 1958 is amended by striking subsection (c) and inserting in lieu thereof the following new subsections: 15 USC 683.

"(c) Subject to the following conditions, the Administration is authorized to purchase preferred securities, and to purchase, or to guarantee the timely payment of all principal and interest payments as scheduled, on debentures issued by small business investment companies operating under the authority of section 301(d) of this Act. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this subsection.

"(1) The Administration may purchase shares of nonvoting stock (or other corporate securities having similar characteristics): *Provided*, That—

"(A) dividends are preferred and cumulative to the extent of 3 per centum of par value per annum, except as provided in paragraph (5);

"(B) on liquidation or redemption the Administration is entitled to the preferred payment of the par value of such securities;

and prior to any distribution (other than to the Administration) the Administration shall be paid any amounts as may be due pursuant to subparagraph (A) of this paragraph;

"(C) the purchase price shall be at par value and, in any one sale, $50,000 or more;

"(D) the amount of such securities purchased and outstanding at any one time shall not exceed—

"(i) from a company licensed on or before October 13, 1971, 200 per centum of the combined private paid-in capital and paid-in surplus of such company, or

"(ii) from any such company licensed after October 13, 1971, and having a combined paid-in capital and paid-in surplus of less than $500,000, 100 per centum of such capital and surplus, or

"(iii) from any such company licensed after October 13, 1971, and having a combined private paid-in capital and paid-in surplus of $500,000 or more, 200 per centum of such capital and surplus; and

"(E) the amount of such securities purchased by the Administration in excess of 100 per centum of such capital and surplus from any company described in clause (i) or (iii) may not exceed an amount equal to the amount of its funds invested in or legally committed to be invested in equity securities; for the purposes of this subsection, the term 'equity securities' means stock of any class (including preferred stock) or limited partnership interests, or shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint venture for profit, or unsecured debt instruments which are subordinated by their terms to all other borrowings of the issuer.

"(2) The Administration may purchase or guarantee debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)): *Provided,* That—

"(A) such debentures are issued for a term of not to exceed fifteen years;

"(B) the interest rate is determined pursuant to this section or section 317; and

"(C) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than $500,000 shall not exceed 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of $500,000 or more, 400 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

"(3) Debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2)(C) of this subsection (c).

"(4) The Administration may require, as a condition of the purchase or guarantee of any securities in excess of 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintain a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in subsection (b) of this section) determined by the Administration to be reasonable and appropriate.

"(5) Notwithstanding the foregoing provisions of this subsection, securities purchased by the Administration on or after the effective date of this Act (A) shall provide that dividends shall be preferred and cumulative to the extent of 4 per centum of par value per annum and (B) shall include a provision requiring the issuer to redeem such securities, including any accrued and unpaid dividends, in 15 years from the date of issuance: *Provided,* That the Administration may, in its discretion, guarantee debentures in such amounts as will permit the simultaneous redemption of such securities, including such amounts as it deems appropriate to include all or any part of accrued and unpaid dividends: *Provided further,* That the Administration shall not pay any part of the interest on such debentures except pursuant to its guarantee in the event of default in payment by the issuer.

"(6) In no event shall the Administration purchase or guarantee debentures or securities if the amount of outstanding securities and debentures of a company operating under the authority of section 301(d) would exceed 400 per centum of its combined private paid-in capital and paid-in surplus or $35,000,000, which ever is less.

"(d) If the Administration guarantees debentures issued by a small business investment company operating under authority of section 301(d) of this Act, it shall make, on behalf of the company payments in such amounts as will reduce the effective rate of interest to be paid by the company during the first five years of the term of such debentures to a rate of interest 3 points below the market rate of interest determined pursuant to section 321. Such payments shall be made by the Administration to the holder of the debenture, its agents or assigns, or to the appropriate central registration agent, if any. The aggregate amount of debentures with interest rate reductions as provided in this subsection or as provided in section 317 which may be outstanding at any time from any such company shall not exceed 200 per centum of the private paid-in capital and paid-in surplus of such company. The authority to reduce interest rates as provided in this subsection shall be limited to amounts provided in advance in appropriations Acts, and the total amount shall be reserved within the business loan and investment fund to pay an amount equal to the amount of the reduction as it becomes due.

"(e) In determining the private capital of a small business investment company, Federal, State, or local government funds received from sources other than the Administration shall be included solely for regulatory purposes, and not for the purpose of obtaining financial assistance from or licensing by the Administration, providing such funds were invested prior to the effective date of this Act.

"(f) Notwithstanding the provisions of any other law, rule, or regulation, the Administration is authorized to allow the issuer of any preferred stock heretofore sold to the Administration to redeem or repurchase such stock upon the payment to the Administration of an amount less than the par value of such stock. The Administration, in its sole discretion, shall determine the repurchase price after considering factors including, but not limited to, the market value of the stock, the value of benefits previously provided and anticipated to accrue to the issuer, the amount of dividends previously paid, accrued, and anticipated, and the Administration's estimate of any anticipated redemption. The Administration may guarantee debentures as provided in paragraph (5) of subsection (c) and allow the issuer to use the proceeds to make the payments authorized herein. Any monies received by the Administration from the repurchase of preferred stock shall be deposited in the business loan and investment fund and shall be available solely to provide assistance to companies operating under the authority of section 301(d), to the extent and in the amounts provided in advance in appropriations Acts.".

15 USC 687*l*.

(5) Section 321(a) of the Small Business Investment Act of 1958 is amended by inserting after the word "companies" the following: ", including companies operating under the authority of section 301(d),".

15 USC 648 note.

(6) Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is further amended by striking "October 1, 1990" and by inserting in lieu thereof "October 1, 1991".

(7) Notwithstanding any other provision of this Act, none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committee on Appropriations under reprogramming procedures except that this provision shall not apply to uniform common rules applicable to multiple Federal departments and agencies including the Small Business Administration; nor may any of such funds be used to restrict in any way the right of association of participants in such program.

Grants.

(8) The funds made available by this appropriations Act for Small Business Development Centers shall be available for grants for performance in fiscal year 1990 or fiscal year 1991.

(9) The limitation of $1,813,250,000 on gross obligations for new direct loans to carry out section 7(b) of the Small Business Act, as amended, which is contained in section 108(c) of House Joint Resolution 423 as enacted into law is hereby waived: *Provided,* That the de facto credit limitation during fiscal year 1990 on gross obligations for new direct loans to carry out section 7(b) of the Small Business Act, as amended, imposed in the final Presidential sequestration order of October 16, 1989, and based on the calculation listed in the Final OMB Sequester Report to the President and Congress for Fiscal Year 1990 is hereby waived.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100-690 (102 Stat. 4466-4467)), $8,000,000, to remain available until expended: *Provided,* That section 607 of the Judicial Improvements and Access to Justice Act, Public Law 100-702,

42 USC 10713.

amending section 215 of the State Justice Institute Act of 1984 is hereby repealed and section 7321(a) of the Anti-Drug Abuse Act of 1988, Public Law 100-690, is hereby revived.

42 USC 10713.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Education and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, or persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $638,569,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided,* That not less than $32,800,000 shall be available for the Television and Film Service notwithstanding section 209(e) of Public Law 100-204: *Provided further,* That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $12,902,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further,* That not to exceed $6,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,675,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636) $160,300,000, including up to

$1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $85,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a), of which not to exceed $16,000,000 may be available for the completion of testing and first-year operations of television broadcasting to Cuba, including, but not limited to the purchase, rent, construction, improvement and equipping of facilities, operations, and staffing: *Provided*, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment: *Provided further*, That the availability of such funds for television broadcasting to Cuba shall be subject to the provisions of part B, title II of H.R. 1487 as passed the House of Representatives until such time as legislation authorizing such activity is enacted into law.

Section 725 of the International Security and Development Cooperation Act of 1981 (22 U.S.C. 2370 note) is hereby repealed.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $12,700,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,700,000: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $17,000,000.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Securities.
15 USC 18a note.

SEC. 605. Five working days after enactment of this Act and thereafter, the Federal Trade Commission shall assess and collect filing fees established at $20,000 which shall be paid by persons acquiring voting securities or assets who are required to file premerger notifications by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a) and the regulations promulgated thereunder. For purposes of said Act, no notification shall be considered filed until payment of the fee required by this section. Fees collected pursuant to this section shall be divided evenly between and credited to the appropriations, Federal Trade Commission, "Salaries and Expenses" and Department of Justice, "Salaries and Expenses, Antitrust Division": *Provided,* That fees in excess of $40,000,000 in fiscal year 1990 shall be deposited to the credit of the Treasury of the United States.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Wages.
Government organization and employees.
Disadvantaged persons.

SEC. 607. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

Grants.
Contracts.

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census or 9 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1989, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $16.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further*, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a

particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

Comunications and telecommunications.
State and local governments.

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Aliens.

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1990, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presidential Order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: Abortion. *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1990 migrant funds as was used in fiscal year 1989: Termination date. *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: Grants. Contracts. 42 USC 2996f note. *Provided further,* That none of the funds appropriated under this Act or under any prior Acts for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence; subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts: *Provided further,* That the Corporation shall insure that all grants and contracts made for calendar year 1990 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1989, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1990, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: *Provided further,* That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in operational effect on October 1, 1988: *Provided further,* That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: *Provided further,* That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1989, shall not become effective until after October 1, 1990, or until authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That, notwithstanding any decision or action of the President of the Corporation after September 7, 1989, funds appropriated under this Act or any prior Acts shall not be denied, for the period October 1, 1989 through December 31, 1990, to any grantee or contractor which in fiscal year 1989 received funding appropriated under any prior Act, as a result of activities which have been found by an independent hearing officer appointed by the President of the Corporation prior to October 1, 1989, not to constitute grounds for a denial of refunding, and any decisions or action of the President of the Corporation reversing or setting aside such decision of an independent hearing officer concerning section 1010(c) of the Act rendered in fiscal year 1989 shall be null and void.

Sea turtles.
Conservation.
International agreements.
Fish and fishing.
Maritime affairs.
16 USC 1537 note.

SEC. 609. (a) The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce on June 29, 1987—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may affect adversely such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles;

(3) encourage such other agreements to promote the purposes of this section with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of such species of sea turtles;

(4) initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles to which the United States is a party in order to make such treaty consistent with the purposes and policies of this section; and

(5) provide to the Congress by not later than one year after the date of enactment of this section—

(A) a list of each nation which conducts commercial shrimp fishing operations within the geographic range of distribution of such sea turtles;

(B) a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles; and

Reports.

(C) a full report on—

(i) the results of his efforts under this section; and

(ii) the status of measures taken by each nation listed pursuant to paragraph (A) or (B) to protect and conserve such sea turtles.

Imports.

(b)(1) IN GENERAL.—The importation of shrimp or products from shrimp which have been harvested with commercial fishing technology which may affect adversely such species of sea turtles shall be prohibited not later than May 1, 1991, except as provided in paragraph (2).

President of U.S.

(2) CERTIFICATION PROCEDURE.—The ban on importation of shrimp or products from shrimp pursuant to paragraph (1) shall not apply if the President shall determine and certify to the Congress not later than May 1, 1991, and annually thereafter that—

(A) the government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

(B) the average rate of that incidental taking by the vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

(C) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

SEC. 610. (a) No monies appropriated by this Act may be used to reinstate, or approve any export license applications for the launch of United States-built satellites on Soviet- or Chinese-built launch vehicles unless the President makes a report under subsection (b) or (c) of this section.

China.

(b) The restriction on the approval of export licenses for United States-built satellites to the People's Republic of China for launch on Chinese-built launch vehicles is terminated if the President makes a report to the Congress that:

(1) the Government of the People's Republic of China has made progress on a program of political reform throughout the entire country which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(c) It is in the national interest of the United States.

SEC. 611. ADOPTION OF FOREIGN BORN ORPHANS.—

(a) IN GENERAL.—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended by inserting before the period at the end the following: ", except that, for purposes of paragraph (1)(F) (other than the second proviso therein) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term 'parent' does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, upon the expiration of the similar amendment made by section 210(a) of the Department of Justice Appropriations Act, 1989 (title II of Public Law 100-459, 102 Stat. 2203).

8 USC 1101 note.

SEC. 612. (a)(1) The Federal Building and United States Courthouse located at 707 Florida Avenue in Baton Rouge, Louisiana, shall hereafter be known and designated as the "Russell B. Long Federal Building and United States Courthouse".

Public buildings and grounds. Louisiana.

(2) Each reference in law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Russell B. Long Federal Building and United States Courthouse".

(b)(1) There is hereby authorized to be appropriated such sums, not to exceed $5,500,000 to remain available until expended, as may be necessary to establish a clinical law center at Seton Hall University in Newark, New Jersey.

(2) The Secretary of Education shall make such grant in accordance with all of the terms, conditions, and requirements set forth for such a center in Amendment Numbered 70 of Conference Report 99-236 (Public Law 99-88 (99 Stat. 305)) and the Secretary of Education is authorized to receive, review and certify for payment applications for said grant. Not more than $1,000,000 of such grant shall be devoted to facilities.

Grants.

(c) There is hereby authorized to be appropriated under title III of the Higher Education Act of 1965, as amended, $4,500,000 to remain available until expended, for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina.

(d)(1) The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, is authorized, in accordance with the provisions of this subsection, to provide a grant for a Bioscience Research Center serving the midwestern States to be established at the University of Kansas in Lawrence, Kansas.

Grants. Kansas.

(2) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary of Health and Human Services may reasonably require.

(3) There are authorized to be appropriated not to exceed $5,200,000 to carry out the provisions of this subsection. Funds appropriated pursuant to this section are authorized to remain available until expended.

SEC. 613. (a) The Congress finds that—

(1) the illegal use of drugs is a crisis in America, causing incalculable suffering and damage to individuals, families, and social institutions;

(2) the economic and social dislocation caused by illegal drugs has had a devastating effect on the fabric of our society and citizens;

(3) it will take a multifaceted approach, both domestically and internationally, to successfully address the multifaceted problem of illegal drugs;

Manuel Noriega.

(4) Manuel Noriega's continued exercise of power in Panama has contributed to political unrest and international illegal drug trafficking in the hemisphere and the world, and that he should be removed from any position of power in Panama in order to reduce the drug flow and increase democracy;

(5) Public Law 100-690, the Anti-Drug Abuse Act of 1988, enacted on November 18, 1988, expressed the sense of the Congress that the President should convene as soon as possible an international conference on combating illegal drug production, trafficking, and use in the Western Hemisphere; and

(6) the national drug strategy announced by the President on September 5, 1989, states that "priority consideration should be given to convening at an early date a drug summit".

(b) It is the sense of the Congress that—

(1) the agenda of the international drug summit should include, among others, the subjects of interdiction, crop eradication, crop substitution, law enforcement, education and prevention, and the international sharing of intelligence;

(2) the President should consult with the leaders of participating countries at the international drug summit on ways to achieve international cooperation and coordination in support of measures directed at removing Manuel Noriega from any position of power in Panama; and

(3) in addition to or in the absence of an international drug summit, the United States should intensify unilateral and bilateral efforts as well as efforts in concert with international organizations and other multinational forums to assist the nations of the hemisphere in their battle against drugs and the drug traffickers, including measures directed at removing Manuel Noriega from any position of power in Panama.

SEC. 614. The funds appropriated by this Act for the Department of State and the United States Information Agency may be obligated and expended, at a rate of operations not exceeding the rate available for fiscal year 1989 or the rate provided in H.R. 2991 as passed the Senate, whichever is lower and under the authority and conditions in applicable appropriations Acts for fiscal year 1989, notwithstanding section 15 of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 2991:

HOUSE REPORTS: No. 101-173 (Comm. on Appropriations), and No. 101-299 and No. 101-332 (Comm. of Conference).
SENATE REPORTS: No. 101-144 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
- Aug. 1, considered and passed House.
- Sept. 29, considered and passed Senate, amended.
- Oct. 26, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and disagreed to Senate amendment No. 83.
- Oct. 31, Senate agreed to conference report; concurred in certain House amendments, in others with amendments; and receded from amendment No. 83.
- Nov. 1, Senate concurred in House amendment to Senate amendment No. 182. House disagreed to certain Senate amendments.
- Nov. 3, Senate insisted on its amendments.
- Nov. 7, House agreed to conference report.
- Nov. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
- Nov. 21, Presidential statement.

Public Law 101-163
101st Congress

An Act

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 21, 1989
[H.R. 3014]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1990, and for other purposes, namely:

Legislative Branch Appropriations Act, 1990.

TITLE I—CONGRESSIONAL OPERATIONS

Congressional Operations Appropriations Act, 1990.
2 USC 60a note.

SENATE

MILEAGE AND EXPENSE ALLOWANCES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $55,019,000 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,216,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $296,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,474,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $458,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $661,500 for each such committee; in all, $1,323,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $290,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $147,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,852,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $28,000,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $983,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $11,980,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $2,079,000: *Provided,* That $100,000 of the amount appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1989 shall remain available until September 30, 1990.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $676,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000, which shall remain available until September 30, 1991: *Provided*, That at the end of the paragraph preceding the heading "Contingent Expenses of the Senate" in subtitle A of the Congressional Operations Appropriations Act, 1989, strike the period and insert the following: ", which shall remain available until September 30, 1991.". 102 Stat. 2160.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96–304 and Senate Resolution 281, agreed to March 11, 1980, $69,442,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $727,200.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $74,389,000 of which $6,000,000 shall remain available until expended.

MISCELLANEOUS ITEMS

For miscellaneous items, $7,506,000: *Provided*, That effective in the case of fiscal years beginning after September 30, 1989, section 120 of Public Law 97–51 is amended by striking out "$40,000" and inserting in lieu thereof "$50,000". 2 USC 61g-6.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $161,124,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

ADMINISTRATIVE PROVISIONS

SECTION 1. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1990, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

2 USC 61g-8 note.

SEC. 2. Funds appropriated to the Conference of the Majority and funds appropriated to the Conference of the Minority for the fiscal year ending September 30, 1990, may be utilized in such amounts as the Chairman of each Conference deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate.

Communications and telecommunications. 2 USC 58a-2.

SEC. 3. Subsection (d) of section 2 of Public Law 100-123 (2 U.S.C. 58a-1), is amended by inserting immediately after "by the Sergeant at Arms)," the following: "and all other moneys received by the Sergeant at Arms as charges or commissions for telephone services,".

Health and medical care. Government organization and employees. 2 USC 121c.

SEC. 4. (a) The Sergeant at Arms and Doorkeeper of the Senate is authorized to establish an Office of Senate Health Promotion.

(b)(1) In carrying out this section, the Sergeant at Arms and Doorkeeper of the Senate is authorized to establish, or provide for the establishment of, exercise classes and other health services and activities on a continuing and regular basis. In providing for such classes, services, and activities, the Sergeant at Arms and Doorkeeper of the Senate is authorized to impose and collect fees, assessments, and other charges to defray the costs involved in promoting the health of Members, officers, and employees of the Senate. For purposes of this section, the term "employees of the Senate" shall have such meaning as the Sergeant at Arms, by regulation, may prescribe.

(2) All fees, assessments, and charges imposed and collected by the Sergeant at Arms pursuant to paragraph (1) shall be deposited in the revolving fund established pursuant to subsection (c) and shall be available for purposes of this section.

(c) There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Health Promotion Revolving Fund (hereinafter referred to in this section as the "fund"). The fund shall consist of all amounts collected or received by the Sergeant at Arms and Doorkeeper of the Senate as fees, assessments, and other charges for activities and services to carry out the provisions of this section. All moneys in the fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for promoting the health of Members, officers, and employees of the Senate.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) The provisions of section 4 of the Act of July 31, 1946 (40 U.S.C. 193d) shall not be applicable to any class, service, or other activity carried out pursuant to the provisions of this section.

Regulations.

(f) The provisions of this section shall be carried out in accordance with regulations which shall be promulgated by the Sergeant at Arms and Doorkeeper of the Senate and subject to approval at the beginning of each Congress by the Committee on Rules and Administration of the Senate.

SEC. 5. (a) Paragraph (3) of section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended to read as follows:

Mail.

> "(3)(A) postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege in excess of amounts provided from the appropriation for official mail costs, upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, (B) postage on, and fees and charges in connection with official mail matter sent through the mail other than the franking privilege upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, and (C) reimbursement to each Senator for costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business;".

2 USC 58 note.

(b) Receipts paid to the Sergeant at Arms from sales of postage on, and fees and charges in connection with mail matter sent through the mail by Senators, Senate committees, or other Senate offices (including joint committees and commissions funded from the contingent fund of the Senate), other than under the franking privilege, as cash or check payments directly from such Senators, committees, or offices, or as reimbursement from the Financial Clerk of the Senate pursuant to certification by the Sergeant at Arms of charges to be made to such funds available to such Senators, committees, or offices for such postage, fees and charges shall be used by the Sergeant at Arms for payment to the United States Postal Service for such postage, fees, and charges.

2 USC 46a-1 note.

SEC. 6. On and after the date this Act becomes law, the Secretary of the Senate, subject to the approval of the Committee on Appropriations of the Senate, is authorized to provide up to $1,000,000 for capitalization purposes to the revolving fund established by the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), by transferring to such revolving fund any funds available from any Senate appropriation account, with respect to which he has disbursement authority, for the fiscal year in which the transfer is made (or for any preceding fiscal year) or which have been made available until expended; and any moneys so transferred shall be available for use in like manner and to the same extent as the moneys in such revolving fund which were not transferred thereto pursuant to this section.

Communications and telecommunications.

SEC. 7. The Secretary of the Senate may enter into an agreement with the Secretary of Education to provide closed captioning of the Senate floor proceedings, subject to the approval of the Senate Committee on Rules and Administration. The Senate authorizes the Secretary of Education to have access to the audio and video broadcast of the Senate floor proceedings for the purpose of captioning. Such funds as may be necessary to carry out the purposes of this section are authorized to be paid from the appropriation account for "Miscellaneous Items" within the contingent fund of the Senate.

Contracts.
31 USC 1535 note.

SEC. 8. (1) The Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate are authorized to acquire goods, services, or space from government agencies and units by agreement under the provisions of the Economy Act, 31 U.S.C. 1535, and to make advance payments in conjunction therewith, if required by the providing agency or establishment.

(2) No advance payment may be made under paragraph (1) unless specifically provided for in the agreement. No agreement providing for advance payment may be entered into unless it contains a provision requiring the refund of any unobligated balance of the advance.

(3) No agreement may be entered into under paragraph (1) without the approval of the Senate Committee on Rules and Administration and the Senate Committee on Appropriations.

Effective date.
2 USC 61h-7.

SEC. 9. The provisions of Senate Resolution 89, of the One Hundredth Congress, agreed to January 28, 1987, are hereby enacted into law, effective on the date such Senate Resolution 89 was agreed to.

2 USC 61d-1.

SEC. 10. The second proviso, under the headings "SENATE" and "OFFICE OF THE CHAPLAIN", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended by striking out "a secretary" and inserting in lieu thereof "such employees as he deems appropriate, except that the amount which may be paid for any fiscal year as gross compensation for personnel in such Office for any fiscal year shall not exceed $147,000".

31 USC 3701 note.

SEC. 11. (a) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against the United States Government), the United States Senate shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Secretary of the Senate shall be deemed to be the head of such legislative agency.

(b) Regulations prescribed by the Secretary of the Senate pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Senate Committee on Rules and Administration.

SEC. 12. There shall be available to meet any unpaid expenses incurred by any duly authorized individual, prior to the first day of the 101st Congress, under authority of section 31a-1 of title 2, United States Code, (1) any unexpended and unobligated funds appropriated for the fiscal year ending September 30, 1988, which were available to such individual as an expense allowance under section 31a-1 or section 31a-3 of such title, plus (2) in case such individual was authorized to incur expenses under authority of section 31a-1 of such title 2 on the last day of the 100th Congress but was not authorized to incur expenses under such authority on the first day of the 101st Congress, 25 percent of the funds appropriated for the fiscal year ending September 30, 1989, under authority of section 31a-2 and section 31a-3 of such title 2.

SEC. 13. (a) There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the "Senate Office of Public Records Revolving Fund" (hereafter in this section referred to as the "revolving fund"). 2 USC 68-7.

(b) All moneys received on and after October 1, 1989, by the Senate Office of Public Records from fees and other charges for services shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for use in connection with the operation of the Senate Office of Public Records, including supplies, equipment, and other expenses.

(c) Disbursements from the revolving fund shall be made upon vouchers approved by the Secretary of the Senate.

(d) The Secretary of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section. Regulations.

(e) To provide capital for the revolving fund, the Secretary of the Senate is authorized to transfer, from moneys appropriated for fiscal year 1990 to the account "Miscellaneous Items" in the contingent fund of the Senate, to the revolving fund such sum as he may determine necessary, not to exceed $30,000.

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to the Estate of Claude Pepper, late a Representative from the State of Florida, $89,500.

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $536,907,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $4,409,000, including: Office of the Speaker, $1,019,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $940,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,041,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $755,000, including $5,000 for official expenses of the Majority Whip and not to exceed $166,560, for the Chief Deputy Majority Whip; Office of the Minority Whip, $654,000, including $5,000 for official expenses of the Minority Whip and not to exceed $84,060, for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $188,074,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $55,000,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $354,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $57,716,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $187,099,000, including: Official Expenses of Members, $76,341,000; supplies, materials, administrative costs and Federal tort claims, $19,577,000; net expenses of purchase, lease and maintenance of office equipment, $9,276,000; furniture and furnishings, $1,130,000; stenographic reporting of committee hearings, $800,000; reemployed annuitants reimbursements, $1,380,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $77,973,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $622,000.

Such amounts as are deemed necessary for the payment of allowances and expenses under this heading may be transferred among the various categories of allowances and expenses under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,660,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $39,595,000, including: Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $17,514,000; Office of the Sergeant at Arms, $1,001,000; Office of the Doorkeeper, including overtime, as authorized by law, $8,747,000; Office of the Postmaster, $3,028,000, including $112,560 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $17,802 per annum each; Office of the Chaplain, $81,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $772,000; for salaries and expenses of the Office of the Historian, $279,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,032,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,400,000; six minority employees, $543,000; the House Democratic Steering Committee and Caucus, $967,000; the House Republican Conference, $967,000; and other authorized employees, $1,264,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this heading may be transferred among the various offices and activities under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated for fiscal year 1990 for salaries and expenses of the House of Representatives, such amounts as may be necessary may be transferred among the headings "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (ALLOWANCES AND EXPENSES)", and "SALARIES, OFFICERS AND EMPLOYEES", upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. (a) One additional employee is authorized for each of the following:

(1) the House Democratic Caucus;
(2) the House Republican Conference;
(3) the Minority Leader; and
(4) the Chief Deputy Majority Whip.

(b) The annual rate of pay for the positions established under subsection (a) shall not exceed the annual rate of pay payable from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 103. (a) Section 104(a) of the Legislative Branch Appropriations Act, 1987 (as incorporated by reference in section 101(j) of Public Law 99-500 and Public Law 99-591) (2 U.S.C. 117e) is amended—

(1) by striking out "SEC. 104. (a)" and inserting in lieu thereof "SEC. 104. (a)(1)";

(2) by striking out the last sentence; and

(3) by inserting after paragraph (1), as so redesignated by paragraph (1) of this subsection, the following new paragraphs:

"(2) If disposal in accordance with paragraph (1) is not feasible because of age, location, condition, or any other relevant factor, the Clerk may donate the equipment to the government of a State, to a local government, or to an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code. A donation under this paragraph—

"(A) shall be at no cost to the Government; and

"(B) may be made only if the used equipment has no recoverable value because disposal in accordance with paragraph (1), under the most favorable terms available to the Government, would result in a loss to the Government.

Regulations.

"(3) The Committee on House Administration of the House of Representatives shall have authority to prescribe regulations to carry out this subsection.

"(4) As used in this section—

"(A) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States; and

"(B) the term 'used equipment' means such used or surplus equipment (including furniture and motor vehicles) as the Committee on House Administration of the House of Representatives may prescribe by regulation.".

(b) The first section of the Act entitled "An Act to authorize the disposition of certain office equipment and furnishings, and for other purposes", approved October 20, 1974 (2 U.S.C. 59a), is repealed.

Effective date.
2 USC 117e note.

(c) The amendments made by subsection (a) and the repeal made by subsection (b) shall take effect on October 1, 1989.

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,518,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,191,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,372,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $1,000 per month to one Senior

Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $500 per month each to two assistants and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (5) $921,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,405,000, to be disbursed by the Clerk of the House: *Provided*, That, upon enactment of this Act, the Office of the Attending Physician Revolving Fund established by the first undesignated paragraph under the center heading "OFFICE OF THE ATTENDING PHYSICIAN REVOLVING FUND" in title III of the Legislative Branch Appropriation Act, 1976 (89 Stat. 283) is abolished and all monies in the Fund on such date or subsequently received by the Attending Physician from the sale of prescription drugs or from any other source shall be deposited in the Treasury as miscellaneous receipts.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $56,253,000, of which $27,548,000 is appropriated to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, $28,105,000 is appropriated to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate, and $600,000, to be disbursed by the Clerk of the House, shall be available for reprogramming upon the approval of the Committees on Appropriations of the House of Representatives and the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training, protective details, and tuition and registration, and expenses associated with the awards program not to exceed $900, expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,884,000, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided* *further,* That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further,* That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1990 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $100,229,000, of which $23,978,000 is available only for Senate official mail costs, to be disbursed by the Secretary of the Senate, $44,530,000 is available only for House official mail costs, to be disbursed by the Clerk of the House, and $31,721,000 which may only be expended in fiscal year 1990: *Provided,* That, of the amounts apropriated heretofore or in this Act, the following sums that would have otherwise been expended in fiscal year 1990, according to estimates made by the Congressional Budget Office under section 308(a)(2) of the Congressional Budget and Impoundment Control Act of 1974, as amended (Public Law 93-344), shall not be obligated or expended during fiscal year 1990: $998,000 of the amounts provided heretofore or in this Act to the accounts under the heading "Senate", the amount for each to be determined by the Secretary of the Senate, with the concurrence of the Senate Committee on Appropriations; $580,000 of the amounts provided in this Act for reprogramming under the headings "Capitol Police Board", "Capitol Police", "Salaries"; $195,000 of the amounts provided in this Act under the headings "Office of Technology Assessment", "Salaries and Expenses"; $900,000 of the amounts provided heretofore or in this Act under the headings "Biomedical Ethics Board and Biomedical Ethics Advisory Committee", "Salaries and Expenses"; $184,000 of the amounts provided in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Capitol Buildings", with the concurrence of the House and Senate Committees on Appropriations; $282,000 of the amounts provided heretofore or in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Capitol Grounds", with the concurrence of the House and Senate Committees on Appropriations; $6,934,000 of the amounts provided heretofore or in this Act under the headings "Architect of the Capitol", "Capitol Buildings and Grounds", "Senate Office Buildings", with the concurrence of the Senate Committee on Appropriations; $225,000 of the amounts provided in this Act under the headings "Library of Congress", "Congressional Research Service", "Salaries and Expenses"; $2,302,000 of the amounts provided heretofore or in this Act under the headings "Government Printing Office", "Congressional Printing and Binding", as approved by the Joint Committee on Printing, with the concurrence of the House and Senate Committees on Appropriations; $111,000 of the amounts provided in this Act under the headings "Library of Congress", "Salaries and Expenses"; and $3,578,000 of the amounts provided heretofore or in this Act under the headings "Government Printing Office", "Office of the Superintendent of Documents", "Salaries and Expenses", the balance to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: *Provided,* That funds appropriated for such purpose for the fiscal year ending September 30, 1989, shall remain available until expended.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,345,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than thirty-three individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

SPECIAL SERVICES OFFICE

Reports.

For salaries and expenses of the Special Services Office, $237,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be obligated until the Sergeant at Arms and Doorkeeper of the Senate and the Clerk of the House jointly report to the Appropriations Committees of both Houses their recommendation for the establishment, funding, staffing, support, and administration of a Congressional Special Services Office, or December 1, 1989, whichever first occurs.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One Hundred First Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $20,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including official representation and reception expenses (not to exceed $2,000 from the Trust Fund) to be expended on the certification of the Director of the Office of Technology Assessment, expenses incurred in administering an employee incentive awards program (not to exceed $1,800), rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww, 42 U.S.C. 1395w-1, and Public Law 100-360, $18,900,000: *Provided*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further*, That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of employees of the

Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study.

BIOMEDICAL ETHICS BOARD

AND

BIOMEDICAL ETHICS ADVISORY COMMITTEE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the duties of the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, as authorized by the Health Omnibus Programs Extension of 1988 (Public Law 100-607), including not to exceed $500 to be expended on the certification of the Chairman of the Biomedical Ethics Board in connection with official representation and reception expenses, and rental of space in the District of Columbia, $1,500,000: *Provided*, That no part of these funds may be obligated or expended until the Biomedical Ethics Board has selected a Chairman and Vice Chairman and all members of the Biomedical Ethics Advisory Committee: *Provided further*, That effective October 1, 1988, and to continue thereafter, the Disbursing Officer of the Library of Congress is authorized to—

Effective date.
2 USC 142h.

(1) disburse funds appropriated for the Biomedical Ethics Board;

(2) compute and disburse the basic pay for all personnel of the Biomedical Ethics Board; and

(3) provide financial management services and support to the Biomedical Ethics Board,

in the same manner as provided with respect to the Office of Technology Assessment under section 101(c) of Public Law 97-51 (2 U.S.C. 142f).

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not to exceed $2,300 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $19,580,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

2 USC 605.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; and other personal services; at rates of pay provided by law, $6,860,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000. 40 USC 166a.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000, which shall remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-Second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $192,000; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $16,122,000, of which $625,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $4,331,000.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $35,320,000, of which $7,800,000 shall remain available until expended: *Provided*, That none of the funds made available herein for improvements to the Senate subway system shall be obligated or expended until a design and financing plan for such system improvements have been approved by the Committee on Appropriations.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $27,875,000, of which $2,465,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Library of Congress Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $25,613,000: *Provided,* That not to exceed $2,300,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1990.

ADMINISTRATIVE PROVISIONS

Public buildings and grounds.
40 USC 166b-6 note.

SEC. 104. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program.

Records.
Reports.

Gifts and property.

SEC. 105. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model.

SEC. 106. (a) The position of Executive Assistant to the Architect of the Capitol is abolished.

(b) The provisions—

(1) under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES", and

(2) of section 303, of H.R. 7593 of the second session of the Ninety-Sixth Congress, as enacted into permanent law by section 101(c) of the Joint Resolution of December 16, 1980 (40 U.S.C. 166b-1), which relate to the salary of the Executive Assistant to the Architect of the Capitol, are repealed.

(c) The third paragraph under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the Legislative Branch Appropriation Act, 1960 (40 U.S.C. 166b-3) is amended—

(1) by striking out "three positions" and inserting in lieu thereof "four positions", and

(2) by striking out ", Assistant Architect," and all that follows and inserting in lieu thereof "or Assistant Architect.".

(d) The proviso in the first undesignated paragraph under the center subheadings "OFFICE OF THE ARCHITECT OF THE CAPITOL" and "SALARIES" in the first section of the Legislative Branch Appropriation Act, 1971 (40 U.S.C. 164a) is amended by striking out ", and, in case of the absence or disability of the Assistant Architect, the Executive Assistant shall so act".

(e) Subsection (b) of section 308 of the Legislative Branch Appropriations Act, 1988 (40 U.S.C. 166b-3a(b)) is amended to read as follows:

"(b) The positions referred to in subsection (a) are—

"(1) the position of assistant referred to in the proviso in the first undesignated paragraph under the center subheadings 'OFFICE OF THE ARCHITECT OF THE CAPITOL' and 'SALARIES' in the first section of the Legislative Branch Appropriation Act, 1971 (40 U.S.C. 164a), and

"(2) the eight positions provided for in the third and fourth undesignated paragraphs under the center subheadings 'OFFICE OF THE ARCHITECT OF THE CAPITOL' and 'SALARIES' in the first section of the Legislative Branch Appropriation Act, 1960 (40 U.S.C. 166b-3).".

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $46,895,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further,* That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code. 2 USC 166 note.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to

Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $77,830,000: *Provided,* That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That, to the extent that funds remain from the unexpended balance of fiscal year 1984 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1990".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

Salaries and Expenses

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,638,000.

LIBRARY OF CONGRESS

Salaries and Expenses

For necessary expenses of the Library of Congress, not otherwise provided for, including $1,033,000 for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, subject to reauthorization, development and maintenance of the Union Catalogs; custody and custodial care of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $164,186,000, of which not more than $5,700,000 shall be derived from collections credited to this appropriation during fiscal year 1990 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,700,000: *Provided further,* That, of the total amount appropriated,

$6,888,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further,* That, hereafter, the balance remaining from the $11,500,000 appropriation in Public Law 98-396, dated August 22, 1984, shall be used to purchase equipment, supplies and services as needed to deacidify books and other materials from the collections of the Library of Congress.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $20,373,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1990 under 17 U.S.C. 708(c), and not more than $1,139,000 shall be derived from collections during fiscal year 1990 under 17 U.S.C. 111(d)(3), 116(c)(1) and 119(b)(2): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $8,139,000: *Provided further,* That $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $37,801,000.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $2,579,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $145,390, of which $46,200 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

Government organization and employees.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

SEC. 204. Not to exceed $2,500 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the annual Library of Congress incentive awards program.

2 USC 142j.

SEC. 205. From and after October 1, 1988, the Library of Congress is authorized to—

(1) disburse funds appropriated for the John C. Stennis Center for Public Service Training and Development;

(2) compute and disburse the basic pay for all personnel of the John C. Stennis Center for Public Service Training and Development;

(3) provide financial management services and support to the John C. Stennis Center for Public Service Training and Development, in the same manner as provided with respect to the Office of Technology Assessment under section 101(c) of Public Law 97-51 (2 U.S.C. 142f); and

(4) collect from the funds appropriated for the John C. Stennis Center for Public Service Training and Development the full costs of providing the services specified in (1), (2), and (3) above, as provided under an agreement for services ordered under 31 U.S.C. 1535 and 1536.

Government organization and employees.
2 USC 142k.

SEC. 206. From and after October 1, 1989, the Librarian of Congress shall take appropriate action to assure that no legislative branch employee whose salary is disbursed by the Library of Congress disbursing office is adversely affected by alternative ways of performing the personnel/payroll processing function.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $7,167,000.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $674,000, of which $573,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

Office of Superintendent of Documents

SALARIES AND EXPENSES

(REAPPROPRIATION AND TRANSFERS)

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $24,500,000, of which $4,312,000 representing excess receipts from the sale of publications and receipts from the sale of land authorized by Public Law 100-458 shall be derived from the Government Printing Office revolving fund, and, of which $3,000,000 in unexpended funds representing excess receipts from the sales of publications that were transferred from the revolving fund in fiscal year 1986, shall be derived from the salaries and expenses appropriation M account: *Provided,* That travel expenses shall not exceed $117,000.

Government Printing Office Revolving Fund

Contracts.

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided,* That not to exceed $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That during the current fiscal year the revolving fund shall be available for the hire of twelve passenger motor vehicles: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further,* That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45-D, 45-E, 45-F, and 47-A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further,* That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and Expenses" together may not be available for the full-time equivalent employment of more than 5,000 workyears: *Provided further,* That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further,* That notwithstanding the

Real property.
District of
Columbia.

limitations of 5 U.S.C., section 5901(a), as amended, the cost of uniforms furnished or allowances paid for uniforms to each uniformed special policeman appointed under the authority of 44 U.S.C. 317, shall not exceed $400 during the first year in which the employee is required to wear a prescribed uniform: *Provided further,* That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15, nor to any employee involved in the in-house production of printing and binding: *Provided further,* That expenses for attendance at meetings shall not exceed $95,000.

Government organization and employees.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $364,720,000: *Provided,* That an additional amount of not to exceed $5,564,000 is made available without fiscal year limitation from the fund established pursuant to 31 U.S.C. 782 (as added by Public Law 100-545, October 28, 1988): *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the

Hazardous materials.

heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further,* That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further,* That $100,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further,* That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Monies in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

Gifts and property.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

Contracts.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Communications and telecommunications.
40 USC 166 note.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

Communications and telecommunications.
40 USC 166 note.

SEC. 306. (a) Hereafter, notwithstanding the applicable statutes described in subsection (b), an agency of the legislative branch to which those statutes apply is authorized to use telecommunications systems and services provided by the Architect of the Capitol or the House of Representatives or the Senate under the approved plan required by section 305 of Public Law 100-202 (101 Stat. 1329-308) if such systems and services—

(1) have been acquired competitively; and

(2) have been determined by the Architect of the Capitol to be at least equal in quality to, and not greater in cost than, the systems and services available under the procurement conducted by the Administrator of General Services known as "FTS2000".

(b) The applicable statutes described in this subsection are—

(1) section 111 of the Federal Property and Administrative Services Act of 1949; and

(2) the Treasury, Postal Service and General Government Appropriations Act of 1990.

(c) As used in this section, the term "agency of the legislative branch" means the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office.

Wages.
40 USC 166b-3a note.

SEC. 307. The pay for the positions described in section 308(b) of the Legislative Branch Appropriations Act, 1988, as contained in section 101(i) of Public Law 100-202—

(1) shall be subject to any applicable adjustment during fiscal year 1990 under, or by reference to any applicable adjustment during fiscal year 1990 under, subchapter I of chapter 53 of title 5, United States Code; and

(2) with respect to the position of Assistant Architect of the Capitol, shall be subject to any recommendation of the President that, pursuant to section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), takes effect during fiscal year 1990.

SEC. 308. (a) None of the funds appropriated for fiscal year 1990 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

SEC. 309. Section 309(a) of title 44, United States Code, is amended by striking out "not to exceed $3,000 in any fiscal year" after "attendance at meetings".

Establishment.
2 USC 130e.

SEC. 310. There is established, as a joint office of Congress, the Special Services Office, which (under the supervision and control of a board, to be known as the Special Services Board, comprised of the Clerk of the House of Representatives, the Sergeant at Arms and Doorkeeper of the Senate, and the Librarian of Congress) shall provide special services to Members of Congress, and to officers, employees, and guests of Congress.

Wages.

SEC. 311. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Government organization and employees.

SEC. 312. Section 6121(1) of title 5, United States Code, is amended by inserting "the Government Printing Office," after "military department,". Also, section 6133(c) of such title is amended by inserting "(1)" after "(c)"; and by adding at the end thereof the following new paragraph: "(2) With respect to employees in the Government Printing Office, the authority granted to the Office of Personnel Management under this subchapter shall be exercised by the Public Printer.".

Children and youth.

SEC. 313. (a) The first section of House Resolution 21, Ninety-Ninth Congress, agreed to December 11, 1985, as enacted into permanent law by section 103 of the Legislative Branch Appropriations Act, 1987 (as incorporated by reference in section 101(j) of Public Law 99-500 and Public Law 99-591) (40 U.S.C. 184b) is amended by striking out "educationally enriching child care" and all that follows through the end of the section, and inserting in lieu thereof the following: "educationally enriching child care—

"(1) for children of Members, officers, employees, and support personnel of the House of Representatives; and

"(2) if places are available after admission of all children who are eligible under paragraph (1), for children of Senators, children of officers and employees of the Senate, and children of employees of agencies of the legislative branch.".

(b) Section 4 of such resolution, as so enacted (40 U.S.C. 184e), is amended—

(1) in subsection (a), by striking out the second sentence; and

(2) in the first sentence of subsection (b), by striking out "to make the reimbursements required by subsection (a) and"

(c) Section 5 of such resolution, as so enacted (40 U.S.C. 184f), is amended—

(1) in the matter before paragraph (1), by striking out ", the term"; and

(2) by striking out paragraphs (1) through (3) and inserting in lieu thereof the following:

"(1) the term 'employee of the House of Representatives' means an employee whose pay is disbursed by the Clerk of the House of Representatives;

"(2) the term 'employee of the Senate' means an employee whose pay is disbursed by the Secretary of the Senate;

"(3) the term 'Member' means, with respect to the House of Representatives, a Representative in, or a Delegate or Resident Commissioner to, the Congress;

"(4) the term 'agency of the legislative branch' means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, and the Copyright Royalty Tribunal; and

"(5) the term 'support personnel' means, with respect to the House of Representatives, any employee of a credit union or of the Architect of the Capitol, whose principal duties are to support the functions of the House of Representatives.".

Government organization and employees.
Drugs and drug abuse.

SEC. 314. No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1990, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

2 USC 907 note.

SEC. 315. Effective in the case of this Act and any subsequent Act making appropriations for the Legislative Branch, for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, or any other Act which requires a uniform percentage reduction in accounts in this Act and any subsequent Act making appropriations for the Legislative Branch, the accounts under the general heading "Senate", and the accounts under the general heading "House of Representatives", shall each be considered to be one appropriation account and one "program, project, and activity".

Effective dates.
Mail.
39 USC 3210 note.

SEC. 316. (a)(1) Effective January 1, 1990, the total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title 39, United States Code, during any calendar year by a Senator entitled to mail franked mail may not exceed an amount equal to three multiplied by the number of addresses to which such mail may be delivered in the State from which the Senator was elected (as determined on the basis of the most recent statistics, from the United States Postal Service, available prior to such calendar year). Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Senator in the State from which such Senator was elected shall not count against the limitation set forth in the preceding sentence.

(2) Effective January 1, 1990, the total number of pieces of mail which may be mailed as franked mail under section 3210(d) of title

39, United States Code, during any calendar year by a Member of the House of Representatives entitled to mail franked mail may not exceed an amount equal to three multiplied by the number of addresses to which such mail may be delivered in the area from which the Member was elected (as determined on the basis of the most recent statistics, from the United States Postal Service, available prior to such calendar year). Any mail matter which relates solely to a notice of appearance or a scheduled itinerary of a Member in the area from which such Member was elected shall not count against the limitation set forth in the preceding sentence.

(b) Effective January 1, 1990, a mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senator or a Member of the House of Representatives shall be limited to 2 sheets of paper (or their equivalent), including any enclosure that—

(1) is prepared by or for the Senator or Member who makes the mailing; or

(2) contains information concerning, expresses the views of, or otherwise relates to the Senator or Member who makes the mailing.

(c) Effective October 1, 1989, section 3216 of title 39, United States Code, is amended by striking out "by a lump sum appropriation to the legislative branch" and inserting in lieu thereof "by appropriations for the official mail costs of the Senate and the House of Representatives".

SEC. 317. At the end of section 3216 of title 39, United States Code, add the following new subsection:

Mail.
Reports.

"(e)(1) Not later than two weeks after the last day of each quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Clerk of the House, the House Commission on Congressional Mailing Standards, the Secretary of the Senate, and the Senate Committee on Rules and Administration a report which shall contain a tabulation of the estimated number of pieces and costs of franked mail, as defined in section 3201 of this title, in each mail classification sent through the mail for that quarter and for the preceding quarters in the fiscal year, together with separate tabulations of the number of pieces and costs of such mail sent by the House and by the Senate.

"(2) Two weeks after the close of the second quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Clerk of the House, the House Commission on Congressional Mailing Standards, the Committee on House Administration, the Secretary of the Senate, and the Senate Committee on Rules and Administration, a statement of the costs of postage on, and fees and charges in connection with, mail matter sent through the mails as described in subsection (1) of this section for the preceding two quarters together with an estimate of such costs for the balance of the fiscal year. As soon as practicable after receipt of this statement, the House Commission on Congressional Mailing Standards, the Committee on House Administration, and the Senate Committee on Rules and Administration shall consider promulgating such regulations for their respective Houses as may be necessary to ensure that total postage costs, as described in subsection (1) of this section, will not exceed the amounts available for the fiscal year.".

SEC. 318. Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A)(i) by striking out "is mailed fewer" and inserting in lieu thereof "is postmarked fewer";

(2) in subparagraph (A)(ii)(II) by striking out "is mailed fewer" and inserting in lieu thereof "is postmarked fewer";

(3) in subparagraph (c) by striking out "is mailed fewer" and inserting in lieu thereof "is postmarked fewer"; and

(4) by adding at the end thereof the following new subparagraph:

Mail.

"(F) For purposes of subparagraphs (A) and (C) if mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.".

President of U.S.
40 USC 162-1.

SEC. 319. (a)(1) The Architect of the Capitol shall be appointed by the President by and with the advice and consent of the Senate for a term of 10 years.

Establishment.

(2) There is established a commission to recommend individuals to the President for appointment to the Office of Architect of the Capitol. The Commission shall be composed of—

(A) the Speaker of the House of Representatives,

(B) the President pro tempore of the Senate,

(C) the majority and minority leaders of the House of Representatives and the Senate, and

(D) the chairmen and the ranking minority members of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

The commission shall recommend at least three individuals for appointment to such office.

(3) An individual appointed Architect of the Capitol under paragraph (1) shall be eligible for reappointment to such office.

Effective date.

(b) Subsection (a) shall be effective in the case of appointments made to fill vacancies in the Office of Architect of the Capitol which occur on or after the date of the enactment of this Act. If no such vacancy occurs within the six-year period which begins on the date of the enactment of this Act, no individual may, after the expiration of such period, hold such office unless the individual is appointed in accordance with subsection (a).

2 USC 1108.

SEC. 320. Section 119(a)(7) of Public Law 100-458 is amended to read as follows: "To make other necessary expenditures including official reception and representation expenses.".

Alison Leland.
Shelia A Smith.

SEC. 321. For payment to Alison Leland, widow of Mickey Leland, late a Representative from the State of Texas, $89,500. For payment to Shelia A. Smith, widow of Larkin Smith, late a Representative from the State of Mississippi, $89,500.

This Act may be cited as the "Legislative Branch Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 3014:

HOUSE REPORTS: No. 101-179 (Comm. on Appropriations) and No. 101-254 (Comm. of Conference).
SENATE REPORTS: No. 101-106 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 31, considered and passed House.
Sept. 6, 7, considered and passed Senate, amended.
Sept. 28, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Nov. 1, 2, 9, Senate agreed to conference report; concurred in House amendments.

○

Public Law 101-164
101st Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 21, 1989
[H.R. 3015]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

Department of Transportation and Related Agencies Appropriations Act, 1990.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,090,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $470,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $6,120,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, $8,250,000.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,325,000, including not to exceed $40,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,300,000.

39-139 O - 89 - 1 (164)

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $24,700,000.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, $1,350,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $835,000.

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $488,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,315,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

For necessary expenses of the Office of Commercial Space Transportation, $725,000.

OFFICE OF ESSENTIAL AIR SERVICE

For necessary expenses of the Office of Essential Air Service, $1,727,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $3,500,000, of which $2,600,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $6,850,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $137,700,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation; and including, for necessary expenses associated with the development of the Departmental Accounting and Financial Information System, $4,500,000, to remain available until expended.

Payments to Air Carriers

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $30,735,000, to remain available until expended.

COMMISSION ON AVIATION SECURITY AND TERRORISM

For necessary expenses for the operation and expenses of the Commission on Aviation Security and Terrorism, to remain available until expended, $1,000,000, to implement the Executive Order 12686 of August 4, 1989.

COAST GUARD

Operating Expenses

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,252,000,000 is authorized to be appropriated, derived by transfer, or otherwise provided in "in kind" commodities and services for Coast Guard operating expenses in fiscal year 1990; of which $1,952,000,000 is hereby appropriated, of which $30,000,000 shall be expended from the Boat Safety Account, notwithstanding any other provision of law, and of which $25,000,000 shall remain available for obligation until September 30, 1991: *Provided,* That of the funds provided for operating expenses for fiscal year 1990, in this or any other Act, not less than $567,000,000 shall be available for drug enforcement activities and not less than $168,467,000 shall be available for environmental protection activities: *Provided further,* That the number of aircraft on hand at any one time shall not exceed two hundred and fourteen, exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further,* That none of the funds appropriated under this Act shall be used by the Secretary of Transportation to close any Coast Guard search and rescue stations, or to close or decommission any unit of the United States Coast Guard unless such closure or decommissioning was provided for in the Budget of the United States, and its supporting documentation, and was agreed to by the Congress in this Act, as provided for in its legislative history, including Committee reports. 14 USC 92 note.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Regulations.
Contracts.
10 USC 2403 note.

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $445,500,000, of which $7,500,000 shall be derived by transfer from "Operating expenses", to remain available until September 30, 1994, of which $132,700,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment; $204,200,000 shall be available to acquire new aircraft and increase aviation capability; $15,900,000 shall be available for command, control and communications and related systems; $71,100,000 shall be available for shore facilities and aids to navigation facilities; and $21,600,000 shall be available for personnel, survey and design, and related costs: *Provided,* That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further,* That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further,* That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further,* That the requirements for such written warranties shall not cover combat damage: *Provided further,* That the unexpended balances of the appropriation "Coast Guard Shore Facilities" shall be transferred to and merged with this appropriation, and remain available for obligation until September 30, 1993.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $2,330,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $420,800,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $72,800,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $20,800,000, to remain available until expended: *Provided*, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that appropriations are not adequate to meet the obligations of the Fund: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1990 for the "Offshore Oil Pollution Compensation Fund".

DEEPWATER PORT LIABILITY FUND

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $50,000,000 in fiscal year 1990 for the "Deepwater Port Liability Fund". 33 USC 1517a.

BOAT SAFETY

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000, to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $3,842,000,000, of which $816,500,000 shall be derived from the Airport and Airway Trust Fund: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities and for issuance of airmen and aircraft certificates, including processing of major repair and alteration forms: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That the unexpended balances of the appropriation "Federal Aviation Administration, Headquarters Administration" shall be transferred to and merged with this appropriation: *Provided further,* That in the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $10,000,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1990, for the purpose of funding such employment: *Provided further,* That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That, of the funds available under this head, $3,400,000 shall be made available for the Federal Aviation Administration to enter into contractual agreement with the Mid-American Aviation Resource Consortium in Minnesota to operate an air traffic controller training program.

Reports.

Contracts.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the lease or purchase of one aircraft from funds available under this head, or prior year funds available under this head, or a combination thereof; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1994, $1,746,487,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That none of the funds under this head shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges for any capital project the Federal share of which is in excess of 50 per centum of the total cost of such project.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $173,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development: *Provided further,* That of the funds available under this head, $1,000,000, to remain available until expended, is appropriated and shall be available for grants under the Federal Grant and Cooperative Agreement Act of 1977 to the National Aviation Institute, Pleasantville, New Jersey, to fund research and development in the area of facilitating research by cataloguing and prioritizing aviation related research efforts and providing a central clearinghouse for aviation research.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,190,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,500,000,000 in fiscal year 1990 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended: *Provided further,* That, of the amount available for obligation under this head, $100,000,000 shall be made available, in addition to amounts otherwise provided by law, for the planning and execution of programs under section 507(c)(2) of the Airport and Airway Improvement Act of 1982, as amended.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

Aircraft Purchase Loan Guarantee Program

49 USC app. 1324 note.

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head the obligations for which are in excess of $10,000,000 during fiscal year 1990. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purpose for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

Limitation on General Operating Expenses

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $234,000,000 shall be paid in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $41,080,000 of the amount provided herein shall remain available until expended: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

University Transportation Centers

(HIGHWAY TRUST FUND)

For necessary expenses for university transportation centers, as authorized by section 21(i)(2) of the Urban Mass Transportation Act of 1964, as amended, $5,000,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account).

Highway Safety Research and Development

(HIGHWAY TRUST FUND)

For necessary expenses in carrying out the provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $6,080,000.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $9,405,000, to be derived from the Highway Trust Fund: *Provided*, That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $9,405,000 in fiscal year 1990 for "Highway-related safety grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $15,000,000, of which $10,000,000 shall be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

23 USC 104 note.

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $12,260,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1990.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,660,000,000, or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1990 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $42,500,000, together with an amount not to exceed the amount of 1989 obligations recovered.

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $33,690,000, of which $2,782,000 shall remain available until expended.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $52,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,200,000 for "Motor carrier safety grants".

Notwithstanding subsection (d) of section 402 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2155, 2156) for States which have received only development grants under such section 402 and which have participated in the Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program, the Secretary shall only approve a plan under such section 402 for fiscal year 1990 which provides that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for the last two full fiscal years preceding the date the plan is approved.

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 for the Baltimore-Washington Parkway, to remain available until expended, $12,000,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $10,000,000, to be derived from the Highway Trust Fund.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $12,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $11,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $9,500,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY WIDENING DEMONSTRATION PROJECT

For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100-202, $2,000,000, to remain available until expended.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Jacksonville, Florida, for the purpose of demonstrating methods of reducing traffic congestion and improving efficiency in the trans-shipment of military and civilian cargo by construction of a bridge to Blount Island, widening State Highway

105 (Heckscher Drive) and constructing an interchange at the intersection of Heckscher Drive and the new Blount Island Bridge, $4,000,000, to remain available until expended.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $5,000,000, to remain available until expended.

CLIMBING LANE SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project on U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $2,500,000, to remain available until expended.

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary for the construction of an improved route between Wabash and Huntington, Indiana, for the purpose of demonstrating the safety and economic benefits of widening and improving rural highways, $2,400,000, to remain available until expended.

OKLAHOMA HIGHWAY WIDENING DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to widen Oklahoma State Route 53 from Interstate Highway 35 east to the entrance of the Ardmore Regional Industrial Airpark for the purpose of demonstrating methods of improved highway and highway safety construction, $2,500,000, to remain available until expended.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary for the construction of a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $8,300,000, to remain available until expended.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $5,000,000, to remain available until expended.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to construct High Occupancy Vehicle lanes on Interstate Route 66 between Interstate Route 495 and U.S. Route 50 for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $4,650,000, to remain available until expended.

URBAN HIGHWAY CORRIDOR DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve and upgrade the M-59 urban highway corridor in southeast Michigan, $4,500,000, to remain available until expended, for the purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system: *Provided*, That of the funds available under this head, $3,000,000 shall be available for a bicycle transportation demonstration project in Macomb County, Michigan.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $5,000,000, to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports.

EBENSBURG BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to construct the Ebensburg, Pennsylvania bypass as authorized by Public Law 100-17, $13,740,000, to remain available until expended.

HIGHWAY DEMONSTRATION PROJECTS—PRELIMINARY ENGINEERING

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for certain highway projects that demonstrate methods of improving safety, reducing congestion, or promoting economic development, $5,800,000, to remain available until expended.

CORRIDOR SAFETY IMPROVEMENT PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid primary and Federal-aid secondary systems, involving Route 1 in New Jersey, there is hereby appropriated $17,300,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

BRIDGE CAPACITY IMPROVEMENTS

(HIGHWAY TRUST FUND)

For the purpose of carrying out the Nashua River Bridge and Broad Street Parkway project in Nashua, New Hampshire, that crosses the Nashua River, there is hereby appropriated $4,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

CORRIDOR H IMPROVEMENT PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of the Corridor H segment of the Appalachian Highway System, there is hereby appropriated $32,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

ROAD EXTENSION DEMONSTRATION

For the purpose of carrying out a demonstration of economic growth and development benefits of four lane bypasses of cities, there is hereby appropriated $11,000,000, to remain available until expended, for the acquisition of rights-of-way and other costs incurred in the upgrading and construction of a portion of a four-lane facility bypassing the cities of Pella, Iowa, and Oskaloosa, Iowa, on Highway 163: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

DES MOINES INNER LOOP DEMONSTRATION PROJECT

For the purpose of demonstrating the benefits of improved access for the revitalization of an underdeveloped portion of a central city, there is hereby appropriated $2,800,000 to remain available until expended, for design, engineering, acquisition of rights-of-way and construction and realignment of roads from I–235 and Harding Road to Fleur Drive at the Des Moines Water Works in Des Moines, Iowa: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

CORRIDOR G IMPROVEMENT PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of the Corridor G segment of the Appalachian Highway System, there is hereby appropriated $10,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

CORNING BYPASS SAFETY DEMONSTRATION PROJECT

For the purpose of carrying out a demonstration of traffic safety and flow improvement, there is hereby appropriated $20,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

SPRING MOUNTAIN DEMONSTRATION PROJECT

For the purpose of carrying out a demonstration project to improve Interstate 15 Spring Mountain interchange in Las Vegas, Nevada, for the purpose of demonstrating construction and reconstruction techniques available for replacement of a major intersection on a heavily utilized, urban transportation route, there is hereby appropriated $2,200,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

MANHATTAN BRIDGE REPLACEMENT DEMONSTRATION PROJECT

For the purpose of carrying out a demonstration project to replace the Kansas River Bridge in Manhattan, Kansas, there is hereby appropriated $3,210,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

JUNCTION CITY HIGHWAY IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in Junction City, Kansas, for the purpose of demonstrating the value of adding acceleration and deceleration lanes along two exits of U.S. Route 77, there is hereby appropriated $400,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended) and the National Traffic and Motor Vehicle Safety Act, $74,550,000, of which $37,486,000 shall remain available until expended.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $32,300,000, to remain available until expended: *Provided,* That, of the funds available under this head, $2,000,000 shall be available for light truck and van safety research and analysis.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $132,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $115,000,000 in fiscal year 1990 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $11,000,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further*, That not to exceed $4,900,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further*, That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1990.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $14,589,000, of which $1,425,000 shall remain available until expended, and of which $500,000 shall be available for grants for up to 50 per centum of the cost of contractual support needed for private sector interstate high-speed rail projects, and for the Federal Railroad Administration to engage in studies relating to safety provisions of super-high-speed magnetic levitation systems: *Provided*, That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary, for payment on the first deed of trust, may be advanced by the Administrator from unobligated balances available to the Federal Railroad

Public buildings and grounds.
Railroads.
40 USC 817 note.

Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

LOCAL RAIL SERVICE ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, as amended, $7,000,000, to remain available until expended: *Provided,* That notwithstanding any provision of sections 5(f) through 5(p) of said Act, from such funds $36,000 shall be reserved for each eligible State for the purposes of either section 5(i) or section 5(h) of said Act, provided that timely application is made in accordance with procedures employed by the Secretary, and the balance of such funds are reserved for use only under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) cf said Act: *Provided further,* That no State may apply for fiscal year 1990 funds under section 5 of said Act until such State has obligated all funds granted to it under said section 5 in previous fiscal years.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $31,900,000, of which $1,175,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $9,600,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $24,800,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $615,000,000, of which $530,000,000 shall be available for operating losses incurred by the Corporation and for labor protection costs, and of which $85,000,000 shall be available for capital improvements. Funds made available for operating losses and for labor protection costs which remain unobligated as of September 30, 1990, may be available for capital improvements: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1990: *Provided further,* That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriations Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further,* That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short-term avoidable costs of operating such service in the second year of operation and 100 per centum of the short-term avoidable operating costs for each year thereafter: *Provided further,* That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

RAILROAD REHABILITATION AND IMPROVEMENT

FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1990: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Transportation shall sell securities or promissory notes with a principal value of at least $50,000,000 that are held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, by no later than September 30, 1990: *Provided further,* That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further,* That the Secretary of Transportation shall transmit a written cer-

Securities.

tification to the Committees on Appropriations of the Senate and House of Representatives before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further,* That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales.

Securities.

REGIONAL RAIL REORGANIZATION PROGRAM

For the settlement of promissory notes pursuant to section 210 of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $94,932,979, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such notes.

CONRAIL COMMUTER TRANSITION ASSISTANCE

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $5,000,000, to remain available until expended.

AMTRAK CORRIDOR IMPROVEMENT LOANS

Illinois.

The Secretary is authorized to provide $3,500,000 in loans to the Chicago, Missouri and Western Railroad, or its successors, to replace existing jointed rail with continuous welded rail between Joliet, Illinois and Granite City, Illinois: *Provided,* That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: *Provided further,* That the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with Federal funds: *Provided further,* That any such loan shall be matched on a dollar for dollar basis by the State of Illinois.

Securities.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $31,809,000: *Provided,* That none of the funds provided in this Act shall be used to implement or enforce the April 25, 1989, Notice of Proposed Rulemaking, "Major Capital Investment Projects".

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $10,000,000: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,625,000,000, together with $5,000,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act of 1964, as amended, to remain available until expended: *Provided*, That notwithstanding any other provision of law, of the funds provided under this head for formula grants, no more than $804,691,892 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended: *Provided further*, That notwithstanding any other provision of law, before apportionment of these funds, $16,554,033 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,140,000,000 in fiscal year 1990 for grants under the contract authority authorized in section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $900,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $160,000,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $85,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Contracts.

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $11,400,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $17,373,000, of which $1,645,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training and for aviation information management.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $10,325,000, to be derived from the Pipeline Safety Fund, of which $5,250,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $32,100,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,950,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $27,600,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $44,450,000: *Provided,* That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

49 USC 10344 note.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $10,000 for official reception and representation expenses of the Board; not to exceed $4,000 for official reception and representation expenses of the Secretary; and not to exceed $25,000 for official reception and representation expenses of the Administrator, $49,842,000, to be derived from the Panama Canal Revolving Fund: *Provided,* That none of these funds may be used for the planning or execution of non-administrative and capital programs the obligations for which are in excess of $452,005,000 in fiscal year 1990: *Provided further,* That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed forty-eight passenger motor vehicles, of which forty-five are for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $15,000 per vehicle).

DEPARTMENT OF THE TREASURY

Rebate of Saint Lawrence Seaway Tolls

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $10,050,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $250,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Interest Payments

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided*, That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

Sec. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

Sec. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

20 USC 241 note.

Sec. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

Contracts.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing executive order issued pursuant to existing law.

State and local governments.
23 USC 104 note.

SEC. 310. (a) For fiscal year 1990 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1989, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1990, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United

States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1990 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; obligations under section 157 of title 23, United States Code; projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code; projects authorized by Public Law 99-500, Public Law 99-591 and Public Law 100-202; or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1990 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1990, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1990, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in fiscal year 1990 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1990, has the amount distributed to such State under paragraph (a) for fiscal year 1990 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred and twenty political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $1,400,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan area until a source of operating funds has been approved in accordance with Michigan law: *Provided*, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

49 USC app. 1617 note.

SEC. 314. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

SEC. 315. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 316. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

Federal Register, publication. Grants.

SEC. 317. Every 30 days, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 318. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: *Provided*, That this prohibition shall not apply in the case of airports that are certified under part 139 of the Federal Aviation Regulations.

SEC. 319. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 320. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

Real property.

SEC. 321. (a) Within 30 days after the date of enactment of this Act, the United States, acting through a duly authorized official, shall convey to the Saint Lawrence Seaway Development Corporation without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon) for the purposes of emergency response and any other purposes as the Administrator of the Corporation deems necessary.

New York.

(b) The real property referred to in subsection (a) is that property (formerly known as the Cape Vincent Coast Guard Station, Village of Cape Vincent, Jefferson County, New York), which is described as follows: beginning at an iron pipe (meander corner) set in the shoreline of the Saint Lawrence River at the Northwest corner of the land either now or formerly of the Roat Estate Property also being at the Northeast corner of the former Arney parcel (Liber 453, page 402, recorded 8/21/45); thence running south 4° 13′ 48″ West a distance of 146.09 feet to a concrete monument set at the most Westerly Corner of the Roat Estate land; thence running South 39° 26′ West a distance of 112.05 feet to a concrete monument; thence running South 69° 17′ West a distance of 145 feet to an iron pin; thence running North 24° 58′ West a distance of 95 feet to an iron pin; thence running North 68° 47′ 12″ East a distance of 116.13 feet to a 2 inch pipe; thence running North 3° 07′ 18″ East a distance of 166.09 feet to the most westerly corner of a steel piling wharf on the shoreline of the St. Lawrence River; thence running a meandering line South 87° 20′ 24″ East a distance of 99.07 feet along the shore of the St. Lawrence River to the most easterly corner of a steel sheet piling wharf on the shoreline of the St. Lawrence River; thence running a meandering line South 81° 56′ 37″ East a distance of 41.8 feet along the shore of the St. Lawrence River to the point of beginning. Containing 0.912 acres of land more or less.

West Virginia.

SEC. 322. Notwithstanding any other provision of law, section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

Hawaii.

SEC. 323. Notwithstanding section 106, subsection (a)(3)(B) of Public Law 100-223, the Airport and Airway Safety and Capacity Expansion Act of 1987, funds apportioned under such section for airports in the State of Hawaii may be made available by the Secretary for primary airports and airports described in section 508(d)(3) in such State.

Government organization and employees.
49 USC app. 1348 note.

SEC. 324. (a) The Federal Aviation Administration shall satisfy the following air traffic controller work force staffing requirements by September 30, 1990:

(1) total air traffic controller work force level of not less than 17,495;

(2) total full performance level air traffic controllers of not less than 12,725; and

(3) at least 70 percent of the air traffic controller work force, at each center and level 3 and above terminal shall have achieved operational controller status.

(b) The Secretary may waive any requirement of this section by certifying that such requirement would adversely affect aviation safety: *Provided*, That such a waiver shall become effective 30 days after the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirement.

SEC. 325. (a) ESSENTIAL AIR SERVICE COMPENSATION.—Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

Reports.

(b) USE OF DEADLY FORCE.—The Secretary shall report to the Committees on Appropriations and the Committees on the Judiciary of the Senate and House of Representatives, to the Senate International Narcotics Control Caucus, and to the Select Committee on Narcotics Abuse and Control of the House of Representatives on:

(1) All current provisions of law and regulation permitting the use of deadly force during time of peace by United States Coast Guard personnel in the performance of their official duties—

(A) within the territorial land, sea, and air of the United States, its territories and possessions; and

(B) outside the territorial land, sea, and air of the United States, its territories and possessions.

(2) Changes, if any that may be necessary to existing law, regulations, treaty, or executive agreements to permit United States Coast Guard personnel to employ deadly force under the following circumstances—

(A) to bring down a suspected drug smuggling aircraft which has refused or ignored instructions to land at a specified airfield for customs inspection after penetrating the territorial airspace of the United States;

(B) to halt a suspected drug smuggling vessel on the sea which has been ordered to heave to for inspection by a United States vessel or aircraft and has ignored or refused to obey the order;

(C) and to halt a suspected drug smuggler who has crossed the land border of the United States illegally and who has refused to obey or ignored an order to stop for customs inspection.

(3) The required report shall be submitted not later than ninety days after the enactment into law of this Act. The required report may be submitted in both classified and unclassified versions.

49 USC app. 2212 note.

SEC. 326. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: *Provided,* That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 327. The Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided,* That no appropriation shall be increased or decreased by more than 5 per centum by all such transfers: *Provided further,* That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

Wages.
Government organization and employees.

SEC. 328. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

101 Stat. 181.

SEC. 329. (a) VILLAGE OF ALSIP, ILLINOIS.—Section 149(a)(30)(D) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended—

(1) by striking out the heading "CALUMET PARK" and inserting in lieu thereof "VILLAGE OF ALSIP"; and

(2) by striking out all that follows after "reconstruction" and inserting in lieu thereof "of 127th Street between Illinois Route 83 and Kostner Avenue in Alsip, Illinois.".

(b) WYOMING STATE HIGHWAY REST AREA.—Notwithstanding section 16 of the Federal Airport Act of 1946 or any other provision of law, the United States hereby releases the right of reversion of the United States on 7.8 acres of land at the South Big Horn Country Airport in Wyoming proposed to be transferred to the Wyoming State Highway Department provided such land is used for a highway rest area.

SEC. 330. (a) VESSEL TRAFFIC SAFETY FAIRWAY.—None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

Hawaii.
Real property.

(b) HONOLULU INTERNATIONAL AIRPORT.—Notwithstanding section 23 of the Airport and Airway Expansion Act of 1970 (as in effect on November 29, 1976), or any other provision of law, including obligations arising under grant agreements issued pursuant to the Airport and Airway Improvement Act of 1982, as amended, or implementing regulations, the Administrator of the Federal Aviation Administration is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated November 29, 1976, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

Any release granted by the Administrator pursuant to this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 4,550.2 acres of submerged lands known as Keehi Lagoon as described in the quitclaim deed, dated November 29, 1976.

(B) The property for which a release is granted shall not include submerged lands within an area 1,000 feet perpendicular to either side of the centerline of Runway 26L, extending 2,000 feet from the end of Runway 26L at the Honolulu International Airport.

(C) The use of property to which such release applies shall not impede or interface with the safety of flight operations or otherwise derogate approach and clear zone protection at the Honolulu International Airport.

(D) Any subsequent release or authorization for use of the property for other than airport purposes shall contain the right to overfly the property and the right to make noise.

49 USC app. 2205 note.

SEC. 331. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration instrument landing systems (along with associated approach lighting equipment and runway visual range equipment), the purchase of which was assisted by an airport improvement program grant. The Federal Aviation Administration shall accept such equipment and it shall thereafter be operated and maintained by the Federal Aviation Administration in accordance with agency criteria.

SEC. 332. Section 329 of the Department of Transportation and Related Agencies Appropriations Act, 1989 is hereby repealed.

102 Stat. 2151.

California.
Highways.

SEC. 333. Notwithstanding any other provision of law, the Secretary shall reimburse the State of California for the Federal share of the fair market value of right of way incorporated into one or more of the following projects and conveyed to the State by the City of Irvine, the City of Tustin, and/or the County of Orange for the construction of the Barranca Parkway/State Route 133 interchange, the Tustin Ranch Road/Interstate Route 5 interchange, the Bake Parkway/Interstate Route 5 interchange, and the improvements to the confluence of Interstate Route 5 and Interstate Route 405 in Orange County, California, upon application by the State of California for reimbursement. The fair market value of the right of way shall be established as determined by the Secretary of Transportation in accordance with regulations and statutes governing the acquisition of rights of way for projects on the Federal Aid Primary and Interstate System.

SEC. 334. (a) INTERMODAL URBAN DEMONSTRATION PROJECT.—Funds appropriated in this Act for "Intermodal Urban Demonstration Project" shall remain available until expended.

102 Stat. 2154.
Safety.

(b) UMTA COMMUTER RAIL SERVICE.—Section 337 of Public Law 100–457 is amended to read as follows:

"Notwithstanding any other provision of law, when a commuter rail service has been suspended for safety reasons, and when a statewide or regional agency or instrumentality commits to restoring such service by the end of 1989, and when the improvements needed to restore such service are funded without Urban Mass Transportation Administration funding, the directional route miles of such service shall be included for the purpose of calculating the fiscal year 1990 section 9 apportionment, as well as the apportionment for subsequent years. If such service is not restored by the end of 1989, the money received as a result of the inclusion of the directional route miles shall be returned to the disbursing agency, the Urban Mass Transportation Administration.".

Urban areas.
49 USC app. 1607a note.

(c) STATEWIDE OPERATING ASSISTANCE.—Section 9(2)(A).—In any case in which a statewide agency or instrumentality is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services, and when such statewide agency or instrumentality is the designated recipient of UMTA funds, and when the statewide agency or instrumentality provides service among two or more urbanized areas, the statewide agency or instrumentality shall be allowed to apply for operating assistance up to the combined total permissible amount of all urbanized areas in which it provides service, regardless of whether the amount for any particular urbanized area is exceeded. In doing so, UMTA shall not reduce the amount of operating assistance allowed for any other State, or local transit agency or instrumentality within the urbanized areas affected. This provision shall take effect with the fiscal year 1990 section 9 apportionment.

Effective date.

SEC. 335. PERMANENT PROHIBITION AGAINST SMOKING ON SCHEDULED AIRLINE FLIGHTS.—Section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)) is amended by deleting in subparagraph (A) of section 404(d)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1374(d)(1)(A)) all after the words "any scheduled airline flight" and inserting in lieu thereof the following: "segment in air transportation or intrastate air transportation, which is—

(i) between any two points within Puerto Rico, the United States, Virgin Islands, the Distict of Columbia, or any State of the United States (other than Alaska and Hawaii), or between any point in any one of the aforesaid jurisdictions (other than

Alaska and Hawaii) and any point in any other of such jurisdictions;

(ii) within the State of Alaska or within the State of Hawaii; or

Alaska.
Hawaii.

Effective date.

(iii) scheduled for 6 hours or less in duration, and between any point described in clause (i) and any point in Alaska or Hawaii, or between any point in Alaska and any point in Hawaii.", to take effect upon the commencement of the 96th day following the date of enactment of this Act, and by striking subparagraph (C).

Michigan.
Highways.

SEC. 336. The segment of Michigan Highway 59 beginning at the intersection of such highway with Michigan Highway 53 in the vicinity of Utica and ending at the intersection of such highway with Gratiot Avenue in the vicinity of Mount Clemens shall be known and designated as the "James G. O'Hara Memorial Highway", and any reference in a law, map, regulation, document, record, or other paper of the United States to such segment shall be deemed to be a reference to the "James G. O'Hara Memorial Highway".

SEC. 337. Notwithstanding any other provision of law, not to exceed one-fourth of 1 per centum of funds apportioned in fiscal year 1990 or 1991 to a State under sections 104(b), 130, 144, and 152 of title 23, United States Code, shall be available to carry out section 140(b) of title 23, United States Code, upon a request by the State highway department.

101 Stat. 181.

SEC. 338. Notwithstanding any other provision of law, section 149(a)(14)(B) of Public Law 100-17 is amended by striking "at least".

Safety.
New York.
Railroads.
New Jersey.

SEC. 339. The Secretary shall conduct a thorough independent safety review of the New York Metropolitan Transportation Authority, including the New York City Transit Authority, the Long Island Railroad and Metro-North commuter railroads, using available funds or funds withheld from formula money allocated to the New York portion of the New York-Northeast New Jersey urbanized area. The Secretary shall submit a comprehensive plan, within thirty days after the date of enactment of this Act, for conducting such an investigation, including the cost and scope of the investigation and an expeditious schedule for completion of such an investigation.

49 USC app. 1619.

SEC. 340. The Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609 et seq.), is amended by adding at the end of section 23 the following new subsection:

"(h) SAFETY, FINANCIAL AND PROCUREMENT COMPLIANCE REVIEWS.—In addition to the purposes provided for under subsection (a), the funds made available under subsections (a) (1) through (5) may be used by the Secretary to contract with any person to provide safety, procurement, management and financial compliance reviews, and audits of any recipient of funds under any such subsection. Any contract entered into under this subsection shall not be subject to the requirements of subsection (d), (e), (f), or (g).".

SEC. 341. The Department of Transportation shall study the effect on consumers of State regulation of the rates, routes, and services of the express package industry and make recommendations to Congress.

Contracts.
Railroads.
Idaho.

SEC. 342. Notwithstanding any other provision of law, any lease agreement entered into between Union Pacific Railroad Company and School District numbered 25, Bannock County, State of Idaho, for purposes of providing recreational and athletic facilities, shall be deemed consistent with purposes identified in 22 Stat. 148 and shall not be considered an abandonment of that property by Union Pacific Railroad Company.

Uniformed services. Environmental protection.

Sec. 343. Notwithstanding any other provision of law, funds available to the Coast Guard under the head "Operating Expenses" in this Act shall be available for expenses incurred in fiscal year 1990 by the Coast Guard in responding to any oilspill.

Sec. 344. Before making the allocation of sums authorized to be appropriated for fiscal year 1990 for public lands highways, the Secretary of Transportation shall set aside $2,000,000 for the Chief Joseph Scenic Highway in the State of Wyoming, to be available until expended.

Reports.

Sec. 345. Of the funds made available to the Federal Railroad Administration under the head "Railroad Research and Development", $500,000 shall be available to identify suitable toilet and waste retention technologies that do not discharge onto tracks to be included as part of future year passenger car acquisitions. The Federal Railroad Administration shall report its findings to the appropriate committees within nine months after passage of this Act.

Sec. 346. Notwithstanding any other provision of this Act or any other law, funds appropriated or made available by this Act or any other Act, for purposes of section 104(c) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)), may also be expended for soundproofing of private schools in a noise impact area surrounding an airport which, on the date of the enactment of this Act, has submitted a noise abatement plan pursuant to Federal Aviation Regulation 150 but such plan has not, as of such date, been acted on by the Secretary of Transportation. The expenditure of such funds pursuant to this section shall be at the discretion of the Secretary of Transportation, and in accordance with regulatory requirements applicable to soundproofing of public schools under section 104(c).

Sec. 347. Not more than $14,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Transportation.

50TH ANNIVERSARY OF THE ALASKA HIGHWAY

Sec. 348. (a)(1) Since 1992 marks the 50th anniversary of the construction of the Alaska Highway, the first and only road link between Alaska and the contiguous United States;

(2) Since the construction of the Alaska Highway across Canada was an enormous feat of engineering, accomplished in less than a year;

(3) Since the Alaska Highway played a key part in the progression of Alaska from a territory to a State;

(4) Since Project 92, the celebration of the 50th anniversary of the Alaska Highway in 1992, is to be a major international event involving the United States, Alaska and Canada; and

(5) Since Project 92 is designed to recognize the historical significance and heritage of the Alaska Highway and its contribution to the development of Alaska and Canada: Now, therefore, be it

(b) Declared that it is the sense of the Senate that the U.S. Department of Transportation should join with the State of Alaska and the Great Alaska Highways Society in planning the celebration of the 50th anniversary of the Alaska Highway as well as appropriate improvements of the Highway.

TITLE IV—EMERGENCY DRUG FUNDING

CHAPTER I

DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $10,261,000 to enhance drug and criminal law enforcement efforts with special emphasis on improving drug law enforcement efforts among the various Justice Department agencies and on expedited deportation proceedings of convicted criminal aliens.

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,476,000, to remain available until expended, to improve the effectiveness of the Department's legal activities, to improve coordination between law enforcement programs in this country and other countries, to improve efforts in extradition of drug cartel kingpins and to improve Criminal Division efforts in Federal/State task forces.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

To continue efforts begun in fiscal year 1989 to improve the ability of the United States Attorneys to prosecute drug and other crime related offenses, $80,699,000, for new assistant United States Attorneys, for annualization of new attorney positions funded in fiscal year 1989, and for automation enhancements necessary to provide productivity and case management in the various United States Attorneys offices.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $23,819,000 to improve the ability of the United States Marshals Service to pursue and apprehend alleged major drug and organized crime figures, and to improve the security required for anti-drug and organized crime judicial proceedings.

SUPPORT OF UNITED STATES PRISONERS

To fight the war on drugs, $23,000,000, to remain available until expended for enhancing the availability of jail space for unsentenced Federal prisoners in the custody of the United States Marshals Service; of which not to exceed $10,000,000 shall be available under the Cooperative Agreement Program to obtain guaranteed housing for Federal prisoners in State and local detention facilities.

ASSETS FORFEITURE FUND

To fight the war on drugs, $25,000,000 for awards for information in drug cases, purchase of evidence for drug violations, equipping conveyances for drug law enforcement, and other expenses as authorized by 28 U.S.C. 524(c)(1) (A)(ii), (B), (C), (F) and (G), as amended, to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For carrying out efforts at National Drug Control $46,361,000 to strengthen the ability of the Federal Government to attack drug cartels and other organized crime groups through the eleven cooperating Federal agencies which participate in the organized crime drug enforcement task forces.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $97,045,000, to strengthen Federal domestic law enforcement at the local level to include additional agents, support personnel and equipment, improvements in automation and telecommunications, and enhancements in field equipment and training.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control, $64,301,000, for additional agents, support personnel and equipment for improved domestic drug law enforcement; for expanded cleanup and disposal of toxic chemicals from clandestine laboratories; to expand State and local task forces; to complete the nationwide placement of asset removal teams; and to improve intelligence programs.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $16,891,000, for additional Border Patrol agents to improve drug interdiction efforts and for additional investigators and other staff needed to increase the apprehension and detention of criminal aliens.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $54,923,000, for additional staff to activate new prisons, to improve staffing at existing institutions, and to fund additional support costs associated with the projected increases in Federal prison populations.

BUILDINGS AND FACILITIES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $1,000,000,000, to remain available until expended, for acquisition and construction of new Federal prison facilities in order to handle the projected growth in prisoner populations resulting from the increased number of drug-related convictions.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

To fight the war on drugs, $308,821,000, to remain available until expended; of which $300,000,000 is for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs for State and local agencies to improve efforts in street-level and community-based drug law enforcement efforts; and of which $8,821,000 is for the Juvenile Justice and Delinquency Prevention Program in order to improve programs for the prevention, intervention and treatment of juvenile crime, especially where it relates to youth gangs and drugs.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $59,550,000 for additional clerks office personnel, probation and pretrial services personnel, magistrates and related support personnel, and drug aftercare treatment services necessary to handle the growth in drug and crime related caseloads in the Federal courts.

DEFENDER SERVICES

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $41,373,000, to remain available until expended, for the increased expenses associated with Federal public defender and community defender organizations and private panel attorneys necessary to handle the growing drug and crime related caseload of the Federal courts.

FEES OF JURORS AND COMMISSIONERS

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $4,000,000, to remain available until expended, for the increased cost of grand and petit juries resulting from the growth in the drug and crime related caseload of the Federal courts.

COURT SECURITY

For carrying out efforts at National Drug Control and the President's initiative to combat violent crime, $15,400,000, to provide for expanded security and protective services for the Federal courts to handle the increase in drug and crime related judicial proceedings which require a higher level of security.

RELATED AGENCY

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For carrying out the provisions of section 7321 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), $4,020,000, to remain available until expended, to allow the State Justice Institute to expand its programs to assist States in improving their court systems to allow them to handle the growing drug and crime related caseload.

CHAPTER II

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

To fight the war on drugs, $4,000,000, to remain available until expended, for the provision of additional emergency shelters for Indian youth and for the construction of juvenile detention facilities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

To fight the war on drugs, $7,250,000, for the Indian Health Service to increase after care services and provide for family outpatient care, expand community education and training efforts with a focus on prevention and training of program staff, expand alcoholism and drug abuse prevention efforts for adolescents through urban Indian health programs, and provide contract health services for substance abuse treatment and rehabilitation of Indian youth and their families.

INDIAN HEALTH FACILITIES

To fight the war on drugs, $1,500,000, to remain available until expended, to allow the Indian Health Service to complete the construction or renovation of facilities to provide detoxification and rehabilitation services in youth regional treatment centers.

CHAPTER III

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out activities to fight the war on drugs including substance abuse research, treatment, and prevention, $727,000,000: *Provided*, That of this amount, $415,000,000 shall be provided for block grants to States under title XIX of the Public Health Service Act to be used exclusively for substance abuse activities and shall remain available for obligation by the States until March 31, 1991, and such obligated funds shall remain available for expenditure by the States until March 31, 1992: *Provided further*, That of this amount, $40,000,000 shall be available for treatment waiting period reduction grants, if authorized in law.

FAMILY SUPPORT ADMINISTRATION

COMMUNITY SERVICES BLOCK GRANT

For an additional amount for anti-drug abuse activities under the Community Services Block Grant Act, $2,000,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

To fight the war on drugs by providing assistance to runaway and homeless youth, by providing drug prevention activities related to youth gangs, and by providing temporary child care, crisis nurseries and abandoned infants assistance to children impacted by drugs, $23,750,000.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

To ensure a drug free learning environment for American students by carrying out the Drug-Free Schools and Communities Act of 1986, as amended, part F of title IV of the Elementary and Secondary Education Act, as amended, and the Department of Education Organization Act, $183,500,000: *Provided*, That of this amount $170,000,000 shall be for State grants under part B, which shall become available on July 1, 1990 and remain available until September 30, 1991; $2,000,000 shall be for innovative alcohol abuse programs under section 4607; $7,500,000 shall be for teacher training under part C; $2,000,000 shall be for national programs under part D; and $2,000,000 shall be transferred to "Departmental Management, Program Administration" for administrative costs: *Provided further*, That of the amounts available for part B, not less than $25,000,000 shall be for section 5121(a) for urban and rural emergency grants: *Provided further*, That funds available under the "Department of Education Appropriations Act, 1990" for "Rehabilitation Services and Handicapped Research" shall also be available for activities under title II of Public Law 100-407; funds available for "School Improvement Programs" shall also be available for activities under title IX of the Education for Economic Security Act, as amended; and funds available for "Student Financial Assistance" shall be administered without regard to section 411F(1) of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), and the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities under part C of title I of the Domestic Volunteer Service Act of 1973 as amended, $1,500,000, of which not more than $150,000 may be used for administrative expenses.

CHAPTER IV

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS

SALARIES AND EXPENSES

To fight the war against armed career criminals, an additional amount of $10,000,000 for the hiring, training and equipping of additional agents and inspectors to enhance the arrest and conviction of armed career criminals who violate Federal firearms statutes.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $18,000,000, of which $15,000,000 shall be available to undertake investigations to counter drug-related money laundering or other law enforcement activities, and of which $3,000,000 shall be available to increase the air interdiction program staffing level to 960 permanent full-time equivalent positions: *Provided*, That none of the additional funds shall be made available for the establishment of the Financial Crimes Enforcement Network without the advance approval of the House and Senate Committees on Appropriations.

OPERATIONS AND MAINTENANCE, AIR INTERDICTION PROGRAM

To fight the war on drugs, an additional $35,800,000, to remain available until expended, for the procurement of interceptor and support aircraft, and to provide for the operation and maintenance expenses of these assets to more effectively interdict the illegal importation of drugs into the United States.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

To fight the war on drugs, an additional amount of $5,000,000, to be derived from deposits in the Fund, for authorized law enforcement purposes.

INTERNAL REVENUE SERVICE

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

To fight the war on drugs, an additional amount of $5,000,000 for criminal investigative activities to support a vigilant enforcement of Federal tax law violations and money laundering related to illegal narcotics activity.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

To fight the war on drugs, an additional amount of $25,000,000 for drug control activities related to the designation of high intensity drug trafficking areas: *Provided*, That from within available funds, the Office of National Drug Control Policy, in conjunction with other departments and agencies, shall undertake assessments of program effectiveness of all federally funded anti-drug programs for the purposes of determining their impact in reducing the illegal drug problem, including their impact on the production, importation, cost, availability, and use of drugs, as well as on the successful treatment and rehabilitation of users and addicts: *Provided further*, That said assessments shall contain comparative cost-benefit and cost-effectiveness data to aid in determination of the absolute and relative value of each program in reducing the illegal drug problem.

SPECIAL FORFEITURE FUND

For Federal prison construction purposes to incarcerate drug traffickers and others who violate Federal statutes, an amount not to exceed $115,000,000, to be derived from deposits in the Fund, and to remain available until expended.

CHAPTER V

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For providing necessary medical care and treatment to eligible veterans with alcohol or drug dependence or abuse disabilities, an additional $50,000,000, which shall be available only for programs and activities described in section 2502(b) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), and as authorized under chapter 17 of title 38 United States Code.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

To fight the war on drugs and eliminate drug-related crime in public housing projects, without regard to section 9(d) of the United States Housing Act of 1937 (42 U.S.C. 1437), an additional $50,000,000, which shall be available only for grants authorized under the Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.) and subject only to the requirements of such Act for project security, physical improvements, enforcement activities, support for voluntary organizations, and innovative programs designed to reduce drug use in and around public housing projects: *Provided*, That $1,000,000 shall be available for contracts, including the provision of technical assistance to public housing officials and resident groups to better prepare and educate them to confront the widespread abuse of controlled substances in public housing projects, pursuant to the Drug-Free Public Housing Act of 1988 (42 U.S.C. 11922, 11923).

Contracts.
Drugs and drug abuse.

CHAPTER VI

DEPARTMENT OF ENERGY

NUCLEAR WASTE DISPOSAL FUND

In order to provide funds for the war on drugs, funds appropriated by the Energy and Water Development Appropriations Act for Fiscal Year 1990 (Public Law 101-101) for the "Nuclear Waste Disposal Fund" are reduced by $46,000,000.

CLEAN COAL TECHNOLOGY

The second paragraph under this head contained in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, is amended by striking "$450,000,000" and inserting "$419,000,000" and by striking "$125,000,000" and inserting "$156,000,000".

Ante, p. 728.

SPR PETROLEUM ACCOUNT

Outlays in fiscal year 1990 resulting from the use of funds appropriated to this account in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990 shall not exceed $147,125,000: *Provided*, That for purposes of section 202 of Public Law 100-119 (2 U.S.C. 909) this action is a necessary (but secondary) result of a significant policy change.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

LAND ACQUISITION AND DEVELOPMENT FUND

The authority to borrow from the Treasury of the United States provided under this heading in the Act making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1990, is hereby reduced to $100,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

Notwithstanding the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990, the amount available for Health Care Financing Administration Program Management shall include not to exceed $1,885,172,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance, the Federal Supplementary Medical Insurance, the Federal Catastrophic Drug Insurance, and the Federal Hospital Insurance Catastrophic Coverage Reserve Trust Funds.

LEGISLATIVE BRANCH

In order to provide funds for the war on drugs, each discretionary appropriation for fiscal year 1990 provided in the Legislative Branch Appropriations Act, 1990, (H.R. 3014), shall be reduced by 0.43 percent: *Provided*, That $3,578,000 representing excess receipts from the sale of publications shall be transferred from the Government Printing Office revolving fund to the Salaries and Expenses Appropriation of the Office of the Superintendent of Documents, Government Printing Office.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

Notwithstanding any other provision of this Act, each discretionary appropriation account, loan program, and obligation limitation in titles I and II of this Act is hereby reduced by 0.3 percent: *Provided*, That the reductions made pursuant to this paragraph shall not apply to "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)", the obligation limitation under "Grants-in-Aid for Airports", and to any appropriation account applicable to salaries and expenses in an amount less than $45,000,000: *Provided further*, That this paragraph shall not reduce the minimum amount specifically designated for drug enforcement activities under "Coast Guard, Operating Expenses": *Provided further*, That, notwithstanding any other provision of this paragraph, the obligation limitation under the head "Grants-in-Aid for Airports" is hereby reduced to $1,425,000,000 and the obligation limitation under the head "Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)" is hereby reduced to $12,210,000,000: *Provided further*, That $25,000,000 of unobligated contract authority available for airport planning and development under section 505(a) of The Airport and Airway Improvement Act of 1982, as amended, is rescinded.

DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $14,000,000 are rescinded.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $141,000 are rescinded.

PROCESSING TAX RETURNS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $1,499,000 are rescinded.

EXAMINATION AND APPEALS

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $3,488,000 are rescinded.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $2,299,000 are rescinded.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The limitation established under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, for the rental of space, as well as the aggregate limitation established thereunder, are reduced by $14,400,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Of the funds appropriated under this head in the Treasury, Postal Service and General Government Appropriations Act, 1990, $945,000 are rescinded.

CHAPTER VII

OFFICE OF NATIONAL DRUG CONTROL POLICY

Reports.

Not later than 30 days after the enactment of this Act, the Director of National Drug Control Policy shall report on how funds made available under title IV of this Act have been allocated and shall, for each quarter of the fiscal year thereafter, within 45 days following the close of the quarter, report on how these funds have been obligated. Reports made under this section shall be filed with

the House of Representatives and the Senate and made available to the Committees on Appropriations and other committees, as appropriate.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 3015:

HOUSE REPORTS: No. 101-183 (Comm. on Appropriations) and No. 101-315 (Comm. of Conference).
SENATE REPORTS: No. 101-121 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
- Aug. 3, considered and passed House.
- Sept. 12-14, 18, 26, 27, considered and passed Senate, amended.
- Oct. 31, Nov. 1, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
- Nov. 9, 14, Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
- Nov. 21, Presidential statement.

○

PUBLIC LAW 101-165—NOV. 21, 1989

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1990

Public Law 101-165
101st Congress

An Act

Nov. 21, 1989
[H.R. 3072]

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes.

Department of Defense Appropriations Act, 1990.
Armed Forces.
Arms and munitions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1990, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $24,510,960,000: *Provided,* That $11,000,000 shall be available only for the activation of one additional battalion for the 6th Light Infantry Division not later than August 15, 1990: *Provided further,* That no reduction be made in any active component combat or corps headquarters unit in the United States to make personnel available for this unit.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,307,700,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,800,200,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,994,040,000: *Provided*, That none of the funds provided in this account and in "Operation and Maintenance, Air Force" may support the continuation of the B-52G Squadron of the 43rd Bomb Wing after June 15, 1990.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,234,400,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,582,800,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $319,200,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $672,700,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,246,700,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty, or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,051,200,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $18,487,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $22,787,559,000: *Provided,* That $250,000 shall be available for the 1990 Memorial Day Celebration: *Provided further,* That of the funds appropriated herein, $3,500,000 shall be available for a grant to the Monterey Institute of International Studies: *Provided further,* That of the funds appropriated in this paragraph, $46,000,000 shall be available only for procurement for the Extended Cold Weather Clothing System (ECWCS) and intermediate cold-wet weather boots, unless $46,000,000 of ECWCS and the intermediate cold-wet weather boots are procured by the Army Stock Fund during fiscal year 1990.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,277,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $23,902,621,000, of which $81,000,000 shall remain available until September 30, 1992: *Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards, Naval Aviation Depots and private companies. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards, Naval Aviation Depots, and private companies. Competitions shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A-76. Naval Aviation Depots may perform manufacturing in order to compete for production contracts: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That the Navy may provide notice in this fiscal year to exercise options under the LEASAT program for the next fiscal year, in accordance with the terms of the Aide Memoire, dated January 5, 1981, as amended by the Aide Memoire dated April 30, 1986, and as implemented in the LEASAT contract: *Provided further,* That notwithstanding section 2805 of title 10, United States Code, of the funds appropriated herein, $2,000,000 shall be available for a grant to the National Museum of Naval Aviation at Pensacola, Florida. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,657,719,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,053,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $21,806,213,000: *Provided,* That none of the funds made available in this Act may be used to disestablish or reduce the operation of the Air Force and Air Force Reserve WC-130 Weather Reconnaissance Squadrons.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,800,156,000, of which not to exceed $10,642,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $861,800,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $894,800,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $77,400,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $978,500,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,867,100,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $1,981,900,000.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $4,700,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board.

Court of Military Appeals, Defense

For salaries and expenses necessary for the United States Court of Military Appeals; $4,000,000, and not to exceed $1,500 can be used for official representation purposes.

Environmental Restoration, Defense

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $601,100,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

Goodwill Games

For logistical support and personnel services including initial planning for security needs (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Goodwill Games) provided by any component of the Department of Defense to the Goodwill Games; $14,600,000, to remain available for obligation until March 31, 1991.

Humanitarian Assistance

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1991: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of

Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress.

TITLE III

PROCUREMENT

Aircraft Procurement, Army

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,789,937,000, to remain available for obligation until September 30, 1992: *Provided*, That the Secretary of Defense shall review the requirements for Apache Helicopters and the Army Helicopter Improvement Program (AHIP) and report to the Committees on Appropriations by April 1, 1990: *Provided further*, That if the report finds that additional Apache or AHIP Helicopters are needed to fulfill the requirements for the U.S. Army, including National Guard and reserve forces, the Secretary of Defense may propose to obligate funds provided herein for advance procurement on additional Apache and/or AHIP Helicopters. Reports.

Missile Procurement, Army

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,708,399,000, to remain available for obligation until September 30, 1992.

Procurement of Weapons and Tracked Combat Vehicles, Army

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,707,611,000, to remain available for obligation until September 30, 1992: *Provided*, That the Secretary of the Army shall complete the technical and operational testing and acquire the technical data package for the Improved Recovery Vehicle, M88A2: *Provided further*, That the Department of the Army shall expeditiously procure an improved vehicle intercommunication system with a goal of an initial procurement contract not later than September 30, 1990.

Contacts.
Communications and telecommunications.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,011,243,000, to remain available for obligation until September 30, 1992.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 168 passenger motor vehicles, of which 55 shall be for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,669,219,000, to remain available for obligation until September 30, 1992.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,389,266,000, to remain available for obligation until September 30, 1992.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ballistic Missile Programs, $1,443,165,000;
Other Missile Programs, $2,831,852,000;
Mark-48 ADCAP Torpedo, $438,642,000;
Mark-50 Torpedo, $271,130,000;
Sea Lance, $1,799,000;
ASW Targets, $12,983,000;
ASROC, $9,282,000;
Modification of Torpedoes, $9,653,000;
Torpedo Support Programs, $39,002,000;
ASW Range Support, $24,205,000;
Other Weapons, $168,838,000;
Spares and Repair Parts, $111,341,000;
Installation of Modernization Equipment, $30,420,000;

In all: $5,392,312,000, to remain available for obligation until September 30, 1992.

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,132,800,000, and in addition, $70,000,000 shall be derived by transfer from "TRIDENT ballistic missile submarine program, 1987/1991", $10,000,000 shall be derived by transfer from "TRIDENT ballistic missile submarine program 1988/92" and $20,000,000 shall be derived by transfer from "TRIDENT ballistic missile submarine program 1989/93": *Provided*, That the amounts transferred shall be available only for the time period of the appropriation from which transferred: *Provided further*, That none of the funds may be obligated for advance procurement for the nineteenth TRIDENT ballistic missile submarine until the Secretary of Defense has certified to the Committees on Armed Services and Appropriations, either that the procurement of TRIDENT ballistic missile submarines at a rate of one per year is consistent with the United States negotiating goals and United States policy on strategic arms reductions and that such production would not necessitate the retirement of ballistic missile submarines prior to the end of their thirty-year service life, or that the President will request an adjusted production profile for TRIDENT ballistic missile submarines in the fiscal year 1991 budget request which is consistent with the United States strategic arms reduction negotiating position and prevents the retirement of ballistic missile submarines prior to the end of their thirty-year service life;

SSN-688 attack submarine program, $753,300,000;

SSN-21 attack submarine program, $614,800,000;

Aircraft carrier service life extension program, $630,300,000;

ENTERPRISE refueling/modernization program, $1,422,100,000;

DDG-51 destroyer program, $3,500,000,000;

LHD-1 amphibious assault ship program, $35,000,000;

LSD-41 dock landing ship cargo variant program, $229,300,000;

MCM mine countermeasures program, $341,500,000;

MHC coastal mine hunter program, $197,600,000;

AO conversion program, $35,700,000;

T-AGOS surveillance ship program, $155,800,000;

AOE combat support ship program, $356,400,000;

LCAC landing craft air cushion program, $273,300,000;

Oceanographic ship program, $278,100,000;

Moored training ship demonstration program, $220,000,000;

Sealift ship program, $600,000,000;

For craft, outfitting, post delivery, and ship special support equipment, $368,900,000;

Coast Guard icebreaker ship program, $329,000,000;

Coast Guard patrol boat program, $84,000,000;

In all: $11,557,900,000, to remain available for obligation until September 30, 1994: *Provided*, That additional obligations may be incurred after September 30, 1994, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $160,000 per vehicle and the purchase of not to exceed 671 passenger motor vehicles of which 645 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $7,970,764,000, to remain available for obligation until September 30, 1992.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 172 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,213,792,000, to remain available for obligation until September 30, 1992.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $15,679,242,000, to remain available for obligation until September 30, 1992: *Provided,* That none of the funds provided in this Act may be obligated on B-1B bomber contracts which would cause the Air Force's $20,500,000,000 cost estimate for the B-1B bomber baseline program expressed in fiscal year 1981 constant dollars to be exceeded.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $6,916,863,000, to remain available for obligation until September 30, 1992.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed 451 passenger motor vehicles of which 376 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $8,524,110,000, to remain available for obligation until September 30, 1992.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $973,720,000, to remain available for obligation until September 30, 1992.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 514 passenger motor vehicles of which 458 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,300,720,000, to remain available for obligation until September 30, 1992.

DEFENSE PRODUCTION ACT PURCHASES

(INCLUDING TRANSFER OF FUNDS)

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $50,000,000, to remain available until expended: *Provided*, That none of these funds shall be obligated for any metal, mineral, or material, unless funds have been obligated since October 1, 1984, for purchases for qualification of that metal, mineral, or material: *Provided further*, That the Secretary of Defense shall transfer the $6,000,000 appropriated under the heading "Defense Production Act Purchases" (102 Stat. 2270-12, Public Law 100-463) for a demonstration project to develop a reliable source of titanium ore from ilemenite to appropriations available to the Secretary of the Interior, in order for the United States Bureau of Mines to carry out such demonstration project, known as the Soledad Canyon Demonstration Project in Los Angeles County, California. These funds shall remain available until September 30, 1993.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,434,378,000, to remain available for obligation until September 30, 1991.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,733,174,000, to remain available for obligation until September 30, 1991: *Provided*, That of funds appropriated in Research, Development, Test and Evaluation, Navy for fiscal year 1989, $22,000,000 shall be transferred to Research, Development, Test and Evaluation, Defense Agencies for fiscal year 1990 for the Tactical Airborne Laser Communications program, to be merged with, and to be available for, the same purposes and the same time period as the appropriation to which transferred: *Provided further*, That for research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics—seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation and other such projects as may be agreed upon, $3,000,000 shall be made available, as a grant, to the Center, of which not to exceed $500,000 of such sum may be used to provide such special equipment as required.

Grants.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $13,635,570,000: *Provided*, That the Secretary of the Air Force shall obligate $100,000,000 of amounts appropriated for research, development, test and evaluation for the Air Force for fiscal year 1989 that remain available for obligation to carry out research, development, test, and evaluation in connection with the Small ICBM program: *Provided further*, That the Secretary of the Air Force shall obligate $50,000,000 of amounts appropriated for research, development, test, and evaluation for the Air Force for fiscal year 1989 from the B-1B program that remain available for obligation only to carry out research, development, test, and evaluation to provide cruise missile capability on the B-1B aircraft: *Provided further*, That the $13,635,570,000 provided under this heading is to remain available for obligation until September 30, 1991.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,113,049,000, to remain available for obligation until September 30, 1991: *Provided*, That $18,000,000 may be available for a facility to enable collaborative research and training for Department of Defense military medical personnel in trauma care, head, neck, and spinal injury, paralysis, and neuro-degenerative diseases: *Provided further*, That of the amount herein provided for the Strategic Defense Initiative, $52,000,000 shall be available only for the Arrow missile program.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Director of Defense Research and Engineering (Test and Evaluation) in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $180,550,000, to remain available for obligation until September 30, 1991.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $12,725,000, to remain available for obligation until September 30, 1991.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

NAVY STOCK FUND

For the Navy stock fund; $40,500,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $126,100,000.

DEFENSE STOCK FUND

For the Defense stock fund; $78,100,000.

EMERGENCY RESPONSE FUND

For the "Emergency Response Fund, Defense"; $100,000,000, to remain available until expended. The Fund shall be available for providing reimbursement to currently applicable appropriations of the Department of Defense for supplies and services provided in anticipation of requests from other Federal Departments and agencies and from State and local governments for assistance on a reimbursable basis to respond to natural or manmade disasters. The Fund may be used upon a determination by the Secretary of Defense that immediate action is necessary before a formal request for assistance on a reimbursable basis is received. There shall be deposited to the Fund: (a) reimbursements received by the Department of Defense for the supplies and services provided by the Department in its response efforts and (b) appropriations made to the Department of Defense for the Fund. Reimbursements and appropriations deposited to the Fund shall remain available until expended.

TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986, as follows: for Operation and maintenance, $148,400,000; for Procurement, $73,000,000; for Research, development, test, and evaluation, $8,000,000, of which not less than $6,100,000 shall be available only for cryofracture: *Provided,* That of the funds appropriated for Chemical Agents and Munitions Destruction, Defense for research, development, test and evaluation for fiscal year 1989, not less than $16,300,000 must be obligated for cryofracture not later than January 15, 1990: *Provided further,* That the Secretary of Defense may only delegate responsibility for the program planning, policy, budget, management, execution and general oversight of the destruction of chemical agents and munitions and the retrograde movement of chemical agents and munitions to the Secretary of the Army; for retrograde, $27,610,000; In all: $257,010,000: *Provided,* That the amount provided for Procurement shall remain available until September 30, 1992, and the amount provided for Research, development, test, and evaluation shall remain available until September 30, 1991 and the amount provided for retrograde shall remain available until September 30, 1992: *Provided further,* That of the funds appropriated for retrograde, not more than $10,000,000 may be obligated or expended, nor may any chemical munitions be moved from existing storage sites, until the Secretary of Defense certifies to the Congress that the Johnston Atoll Chemical Agent Disposal System has destroyed live agent chemical munitions and that adequate storage capacity exists on Johnston Atoll to safely accommodate any chemical munitions or hazardous materials transported to that site: *Provided further,* That none of the funds appropriated in this or any other Act may be obligated to construct additional chemical munition storage facilities on Johnston Atoll.

TITLE VII

OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS

DRUG INTERDICTION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and enforcement activities of the Department of Defense, not provided for elsewhere in this Act, $450,000,000; for transfer as follows: Army National Guard and Air National Guard operation and maintenance, personnel expenses, and associated administrative costs, $70,000,000; for Army National Guard and Air National Guard equipment, $40,000,000; for Operation and Maintenance, including the Civil Air Patrol, $88,200,000; for Research, Development, Test and Evaluation, $10,400,000; for Military Construction, $3,700,000; and, for Procurement, $237,700,000: *Provided,* That the funds appropriated by this paragraph shall be available for obligation for the same period and for the same purpose as the appropriation to which transferred and the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further,* That of the amount appropriated, $2,500,000 shall be transferred to the Department of the Treasury solely for the expenses associated with a classified project.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, as follows: for Operation and maintenance, $95,749,000; for Procurement, $1,051,000; In all: $96,800,000: *Provided,* That the amount provided for Procurement shall remain available until September 30, 1992.

TITLE VIII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $154,900,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $28,400,000.

THE MILDRED AND CLAUDE PEPPER FOUNDATION

(INCLUDING TRANSFER OF FUNDS)

For payment to the Mildred and Claude Pepper Foundation, a direct and unrestricted grant, including any interest or earnings therefrom, to support the purposes of the Foundation, its ongoing educational and public services programs and to serve as a memorial to the late Senator Claude Pepper; $10,000,000: *Provided*, That, notwithstanding any other provision of law or of this Act, the Secretary of Defense is hereby authorized and directed to make the grant authorized by this section to the Mildred and Claude Pepper Foundation, and such grant shall be transferred to the Foundation by January 1, 1990.

Grants.

TITLE IX

GENERAL PROVISIONS

SEC. 9001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Government organization and employees.
10 USC 2241 note.

SEC. 9002. During the current fiscal year and hereafter, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

Aliens.
Employment and unemployment.
Government organization and employees.
10 USC 1584 note.
Wages.

SEC. 9003. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher.

Small business.
Contracts.
Minorities.
10 USC 2301 note.

SEC. 9004. During the current fiscal year and hereafter, the Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 9005. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

10 USC 2241 note.

Sec. 9006. During the current fiscal year and hereafter, no part of the appropriations available to the Department of Defense shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

Sec. 9007. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

International agreements. Real property. 10 USC 2341 note.

Sec. 9008. During the current fiscal year and hereafter, the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

Reports.

In addition to the foregoing, hereafter agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

Sec. 9009. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

International agreements.
Business and industry.

Agriculture and agricultural commodities.

Government organization and employees.
10 USC 593 note.

SEC. 9010. During the current fiscal year and hereafter, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

(TRANSFER OF FUNDS)

SEC. 9011. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 9012. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the

Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 9013. (a) None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

(b) Except as provided in 10 U.S.C. 2690, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives, none of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided*, That this limitation shall apply to any authority granted pursuant to section 9008 of this Act.

Germany.
Energy.

(c) Except (1) as provided in 10 U.S.C. 2690, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives; and (2) that all conversions at the Wiesbaden and Kaiserslautern Military Communities shall be held in abeyance until August 15, 1990, in order for the Secretary of the Air Force to thoroughly evaluate the requirement for and cost-effectiveness of the proposal to convert these systems to third-party cogeneration systems using American coal and until the General Accounting Office has reviewed the findings of the Defense Department, after which date the Weisbaden and Kaiserslautern Military Communities may be converted under (1) above, none of the funds available to the Department of Defense in the Act shall be used to enter into any agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel.

SEC. 9014. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 9015. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 9016. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the lower of: (a) the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (b) the allowable amounts in effect during fiscal year 1988 increased to the extent justified by economic changes as reflected in appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act.

10 USC 114 note.

SEC. 9017. During the current fiscal year and hereafter, none of the funds available to the Department of Defense shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided,* That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 9018. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1991.

Contracts.
10 USC 2780 note.

SEC. 9019. During the current fiscal year and hereafter, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

10 USC 2241 note.

Health and medical care.

SEC. 9020. During the current fiscal year and hereafter, none of the funds available to the Department of Defense shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 9021. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

M-1 tank engines;
M-1 tank fire control;
Bradley Fighting Vehicle;
Family of Heavy Tactical Vehicles;
Maverick Missile (AGM-65D);
SH-60B/F Helicopter; and
DDG-51 Destroyer (Two years).

(TRANSFER OF FUNDS)

SEC. 9022. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 9023. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 71,449: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 48,576 positions in support of the Army Reserve, Army National Guard, or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard, or Air National Guard.

SEC. 9024. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1990 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1990, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1991 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1991 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1991.

10 USC 2241 note.

SEC. 9025. During the current fiscal year and hereafter, none of the funds made available to the Department of Defense shall be used in any way for the leasing to non-Federal agencies in the

United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided*, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further*, That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

Aircraft and air carriers.
Motor vehicles.

SEC. 9026. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 9027. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 9028. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

Animals.

SEC. 9029. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

10 USC 2241 note.

SEC. 9030. During the current fiscal year and hereafter, funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

10 USC 401 note.

SEC. 9031. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable

Reports.

Education.
Hawaii.
Health and medical care.
Territories, U.S.

basis, for not more than 250 civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau and Guam.

National Guard. Employment and unemployment.

SEC. 9032. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 9033. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 9034. (a) None of the funds appropriated by this Act, shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act:

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided,* That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a fifteen-month program established by the Secretary of Defense to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further,* That no contribution to the Fund pursuant to section 2006(g) shall be made during the current fiscal year that represents liabilities arising from the Department of the Army: *Provided further,* That this subsection applies to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided,* That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further,* That this subsection applies to active components of the Army.

Education. National Guard.

SEC. 9035. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 9036. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

Blind persons.
Handicapped persons.
Indians.

SEC. 9037. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided*, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

10 USC 2701 note.

Real property.
State and local governments.
Corporations.

SEC. 9038. During the current fiscal year and hereafter, appropriations made available to the Department of Defense may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided*, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 9039. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided*, That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further*, That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 9040. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided*, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 9041. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 9042. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

Maritime affairs.

SEC. 9043. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 9044. None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth: *Provided,* That any and all funds derived from contracts or subcontracts issued for the CHAMPUS Reform Initiative shall not be subject to any Hawaii State or local sales, general excise, or similar taxes imposed upon gross sales, gross income, or gross receipts, except to the extent that such taxes are uniformly imposed upon physicians, hospitals, and all similar direct providers of health care services.

Computers.

SEC. 9045. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability: *Provided,* That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 9046. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1990, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided, however,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 9047. (a) Of the funds appropriated to the Army, $12,000,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided,* That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

(b) None of the funds appropriated or made available in this Act are available for procurement of Tactical Army Combat Service Support Computer Systems (TACCS) unless at least 50 percent of the TACCS computers procured with Army fiscal year 1990 funds are provided to the Reserve Component.

(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component which duplicate functions to be included in the RCAS contract.

Sec. 9048. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided,* That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further,* That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

Contracts.

Sec. 9049. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

Sec. 9050. Not to exceed $20,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 9051. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under manufactured outside the United States.

(TRANSFER OF FUNDS)

SEC. 9052. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician pay and Department of Defense medical personnel and programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision: *Provided further*, That amounts transferred under this provision for Department of Defense medical personnel and programs (including CHAMPUS), shall come from prior year unobligated appropriations and shall be offset within the appropriations to which transferred.

SEC. 9053. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 9054. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1990 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act for fiscal year 1990.

SEC. 9055. None of the funds provided in this Act may be obligated or expended for the procurement of LANDSAT or SPOT remote sensing data except by the Defense Mapping Agency, in its role as primary action office for such purchases by Department of Defense agencies and military departments.

SEC. 9056. The designs of the Army LHX helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1998.

SEC. 9057. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 9058. Notwithstanding any other provision of law, the Secretary of Defense shall require that a provider of services under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) also provide services to members of the armed forces pursuant to section 1074(c), title 10, in accordance with the same reimbursement rules, subject to modifications deemed appropriate by the Secretary of Defense, as apply under CHAMPUS.

(TRANSFER OF FUNDS)

SEC. 9059. Notwithstanding any other provision of law, during fiscal year 1990, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $140,000,000 in supplies, fuel, training assistance, medical support, and other operational support, exclusive of administrative costs; and from funds made available in this Act, $160,000,000 shall be transferred to Coast Guard "Operating Expenses".

(TRANSFER OF FUNDS)

SEC. 9060. In addition to any other transfer authority contained in this Act, amounts from working capital funds shall be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows:

(a) from the Navy Stock Fund, not less than $156,000,000 shall be transferred to Operation and Maintenance, Marine Corps; from the Defense Stock Fund, not less than $195,000,000, of which $20,000,000 shall be transferred to Operation and Maintenance, Army Reserve; $30,000,000 shall be transferred to Operation and Maintenance, Navy Reserve; $30,000,000 shall be transferred to Operation and Maintenance, Air Force Reserve; $20,000,000 shall be transferred to Operation and Maintenance, Army National Guard; $35,000,000 shall be transferred to Operation and Maintenance, Air National Guard; and $60,000,000 shall be transferred to Operation and Maintenance, Defense Agencies for the Defense Logistics Agency.

(b) from the Army Stock Fund, $114,000,000 and from the Army Industrial Fund, $73,400,000 may be transferred to Operation and Maintenance, Army; from the Navy Stock Fund, $281,200,000 and from the Navy Industrial Fund, $400,950,000 may be transferred to Operation and Maintenance, Navy; from the Marine Corps Industrial Fund, $4,000,000 may be transferred to Operation and Maintenance, Marine Corps; from the Air Force Stock Fund, $156,000,000 and from the Air Force Industrial Fund, $111,750,000 may be transferred to Operation and Maintenance, Air Force; and, from the Defense Industrial Fund, $29,900,000 may be transferred to the Defense Logistics Agency: *Provided*, That the Secretary of Defense may waive the transfers in subsection (b) upon notification to the House and Senate Committees on Appropriations.

SEC. 9061. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the Carbon.

polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided*, That the annual goals to achieve this requirement be as follows: 15 percent of the total DOD requirement by 1988; 15 percent of total DOD requirement by 1989; 20 percent of the total DOD requirement by 1990; 25 percent of the total DOD requirement by 1991; and 50 percent of the total DOD requirement by 1992.

Union of Soviet Socialist Republics. International agreements.

SEC. 9062. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided*, That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty first day following submission of an appropriate request for payment: *Provided further*, That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members engaged in activities related to the INF Treaty: *Provided further*, That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

Health and medical care. Children and youth. Health care facilities.

SEC. 9063. During the current fiscal year, notwithstanding any other provision of law, the Department of Defense shall exclude from diagnosis related groups regulations: (a) inpatient hospital services in a hospital whose patients are predominantly under 18 years of age and (b) such services in any hospital with respect to (1) discharges involving newborns and infants who are less than 29 days old upon admission (other than discharges classified to diagnosis related group 391), (2) discharges involving pediatric bone marrow transplants, (3) discharges involving children who have been determined to be HIV seropositive, and (4) discharges involving pediatric cystic fibrosis. The Department of Defense may include the hospital and neonatal services identified in subsections (a) and (b) in diagnosis related group regulations during fiscal year 1990 when the Department of Defense has adopted special measures to assure equitable and adequate payment for such services, such special measures including: (1) a "children's hospital differential" adjustment for each discharge of a CHAMPUS patient from a children s hospital that will assure that had the regulations been in effect for fiscal year 1988 they would have resulted in estimated aggregate CHAMPUS payments to children's hospitals not less than estimated aggregate CHAMPUS payments to such hospitals for discharges occurring during that fiscal year under the regulations in effect during fiscal year 1988 (recognizing that payments in subsequent years will vary based on volume, case mix intensity, and other factors); for a transitional period of three years the children's hospital differential will be computed on a hospital specific basis for children's hospitals with 50 or more CHAMPUS discharges in fiscal year 1988 and will be computed in aggregate for children's hospitals with less than 50 discharges in a year; (2) a children's hospital differential hold harmless provision, providing for retrospective and prospective corrections; (3) a special outlier policy for children's hospitals and neonatal services that combines the thresholds in effect under CHAMPUS DRG regulations for fiscal year 1988 with the higher marginal cost factors proposed by 53 Fed. Reg. 20580 (June 3, 1988); (4) a refinement to the DRGs for neonatal services to account for birthweight, surgery, and the presence of multiple, major, and other neonatal problems; (5) incorporation of annual updates to the classification features included in the regulation for neonatal services; (6) a provision for making interim payments for cases that are especially lengthy or expensive; and (7) a commitment to examine possible further uses of Pediatric Modified DRGs in the future: *Provided*, That the Department of Defense shall ensure that beneficiaries not be required to pay more in cost-shares under the foregoing exclusions than those which would have been imposed if the diagnosis related group system had not been instituted: *Provided further*, That notwithstanding any other provision of law, appropriations available to the Department of Defense may be used to pay the difference between the cost-shares paid by beneficiaries under the foregoing and the billed charges for services covered by this provision.

Reports.

SEC. 9064. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $125,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1990, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: *Provided*, That, (a) Not more than $1,539,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Defense.

Reports.

(b)(1) Not later than 30 days after the end of each fiscal quarter, the Secretary of Defense shall (A) submit to Congress a report on the amounts obligated by the department during that quarter for the procurement of advisory and assistance services, and (B) transmit a copy of such report to the Comptroller General of the United States.

(2) Each report submitted under paragraph (1) shall include a list with the following information:

(A) All contracts awarded for the procurement of advisory and assistance services during the quarter and the amount of each contract.

(B) The purpose of each contract.

(c) The Comptroller General of the United States shall review the reports submitted under subsection (b) and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such reports.

Vietnam.
Prisoners of war.
Missing in action.

SEC. 9065. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

Hazardous materials. California.

SEC. 9066. (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed $14,700,000, to execute the cleanup of uncontrolled hazardous waste contamination in accordance with the Record of Decision on Landfill No. 26 at Hamilton Air Force Base, in Novato, in the State of California: *Provided*, That no funds shall be used for such purpose until the Secretary of Defense, the Administrator of General Services, and the purchaser of the Sale Parcel reach an agreement resolving all disputes relating to the withdrawal of Landfill No. 26 and buffer acreage from the original Sale Parcel, except that funds may be expended on any and all preconstruction or related activities and may be expended to the extent required under Federal or State law.

Contracts. National parks, monuments, etc.

(b) Notwithstanding any other provision of law, the Department of Defense and the General Services Administration shall enter into an agreement with the purchaser of the aforementioned Sale Parcel which shall provide that:

(1) the United States Government will retain and develop the site plus a suitable buffer area as an accessible open space park;

(2) the original purchase price of the parcel shall be reduced by an amount which shall be agreed to by the aforementioned parties; and

(3) the purchaser shall be granted the right to withdraw from the sales contract at any time prior to the closing of the sale and receive its deposit and any pre-development expenses as documented by the General Accounting Office incurred since the date of the General Services Administration auction, plus accrued interest, in return for the release from any and all damages and claims against the United States Government with respect to the site and contamination.

(c) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in subsection (b)(3) of this section, the purchasers' deposit of $4,500,000 shall be returned by the General Services Administration and any funds eligible for reimbursement under subsection (b)(3) shall come from the funds made available to the Department of Defense by this Act.

(d) Notwithstanding any other provision of law, the account from which funds are used to carry out subsection (a) of this section, shall be reimbursed for up to $7,700,000 from the proceeds collected upon the closing of the aforementioned Sale Parcel.

SEC. 9067. None of the funds in this Act may be obligated or expended to conduct an Environmental Impact Study on the feasibility of purchasing acreage in Georgia for the proposed Southeast Weapons Range.

Reports.

SEC. 9068. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) establish or operate Training and Administration of Reserves (TAR) enlisted detailing or any enlisted placement functions or billets at the Chief of Naval Personnel and the Naval Military Personnel Center headquarters, or (2) transfer any Naval TAR, seaman, fireman, and airman detailing functions and billets or reduce civilian and military personnel end strengths from the Naval Reserve Personnel Center and the Enlisted Personnel Management Center until sixty days after the Secretary of Defense submits a report, including complete review comments by the General Accounting Office, to the Committees on Appropriations of the House and Senate justifying any transfers, operations, or reductions in terms of (1) addressing the overall mission and operations staffing of all detailing and placement functions for active and reserve personnel functions and commands; and (2) certifying that such realignments do not duplicate functions presently conducted; are cost-effective from a budgetary standpoint; will not adversely affect the mission, readiness and strategic considerations of the Navy and the Navy Reserve; and will not adversely impact on the quality of life and economic benefits of the individual serviceman.

SEC. 9069. None of the funds appropriated in this Act may be available for offshore procurement of second or third generation night vision image intensifier tubes and devices: *Provided*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 9070. (a) Congress makes the following findings—

(1) The United States Government relies on satellites for communications, early warning of attack, monitoring compliance with arms control agreements, and many other vital national security functions;

(2) Such satellites constitute vital integral parts of many United States weapons systems, command, control and communications systems, and other military systems;

(3) It is essential to the national security of the United States that United States Government satellites not be vulnerable to anti-satellite attacks;

(4) It is in the national security interests of the United States and its allies to deter the development and testing of anti-satellite weapons by the Soviet Union;

(5) It is in the national security interests of the United States to undertake a balanced response to Soviet anti-satellite capabilities, which includes a measured ASAT program;

(6) Key agencies of the Executive Branch are examining options for specific anti-satellite arms control measures; Therefore:

Reports.
Space.

(b)(1) The Executive Branch should conclude its examination of specific anti-satellite arms control options and rules of the road for space activities without delay, and include its recommendations and conclusions from this examination in the report to Congress already required by the Conference Report on the Fiscal Year 1989 Dire Emergency Supplemental Appropriations Act;

President of U.S.

(2) The President shall—with a view toward considering how to improve United States ASAT arms control monitoring capabilities—assess the national security implications for the United States of a mutual deployment of cooperative monitoring and verification technologies; the results of such assessment shall be included in the above-mentioned report;

(3) As soon as practicable, the President should take advantage of the forum provided by the ongoing Defense and Space Talks with the Soviet Union to explore—consistent with the conclusions of the above-mentioned report—adequately verifiable limitations on the development, testing, production, and deployment of weapons capable of directly threatening United States military satellites.

SEC. 9071. None of the funds available to the Department of Defense, including expired appropriations and M account balances, may be used for the B-1B's ALQ-161A CORE program unless the Secretary of Defense has notified the Congress in advance of his intention to use funds for such purpose: *Provided*, That no funds available to the Department of Defense may be used for research, development, test, evaluation, installation, integration, or procurement of an advanced radar warning receiver for the B-1B.

102 Stat. 2270-12.

SEC. 9072. The appropriation "Research, Development, Test and Evaluation, Army" contained in the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by striking out the proviso following "intercommunications system:" and ending with "support vehicles:".

SEC. 9073. None of the funds in this Act may be available for the procurement of Multibeam Sonar Mapping Systems which are not manufactured in the United States: *Provided*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 9074. The $100,000,000 provided for Shipbuilding and Conversion, Navy under the appropriation "Special Operations Forces Fund" contained in the Department of Defense Appropriations Act, 1989 (Public Law 100-463) shall remain available for obligation until September 30, 1990.

Animals.
Wildlife.
Conservation.

SEC. 9075. Effective for only fiscal year 1990, whenever the Secretary of the Army captures and removes wild horses and burros from White Sands Missile Range, the Secretary may transfer such horses and burros to the Secretary of the Interior as excess animals. Upon receipt of any horse or burro pursuant to this section, the Secretary of the Interior shall treat such animals as excess animals removed under section 3(b)(2) of the Wild Free-Roaming Horses and Burros Act (16 U.S.C. 1333(b)(2)): *Provided*, That the cost of processing such animals incurred by the Department of the Interior shall be reimbursed by the Secretary of the Army, not to exceed $200,000.

SEC. 9076. No funds appropriated by this Act may be obligated or expended to prepare, or to assist any contractor of the Department of Defense in preparing, any material, report, list, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

SEC. 9077. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 9078. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

Contracts.

SEC. 9079. None of the funds appropriated by this Act or hereafter shall be obligated for the second career training program authorized by Public Law 96-347.

10 USC 2241 note.

SEC. 9080. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 9081. No funds available to the Department of Defense during the current fiscal year and hereafter may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: *Provided,* That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

10 USC 2401 note.

Contracts.
Maritime affairs.
Aircraft and air carriers.
Motor vehicles.

SEC. 9082. Of the funds made available to the Department of the Air Force in this Act, not less than $6,700,000 shall be available for the Civil Air Patrol.

SEC. 9083. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 9084. Notwithstanding any other provision of law, funds available in this Act shall be available to the Department of Defense to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

Wages.
Government organization and employees.

SEC. 9085. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided,* That savings that result from this provision are represented as such in future budget proposals.

SEC. 9086. From the amounts appropriated in this Act, funds shall be available for Naval Aviation Depots to perform manufacturing in order to compete for production contracts of Defense articles: *Provided,* That the Navy shall certify that successful bids between Naval Aviation Depots and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further,* That competitions conducted under this authority shall not be subject to section 2461 or 2464 of title 10,

Contracts.
Business and industry.

United States Code, or to Office of Management and Budget Circular A-76.

50 USC app. 2410a note.

SEC. 9087. (a) PROHIBITION.—During the period beginning on the date of the enactment of this Act and through December 28, 1991, no product manufactured or assembled by Toshiba America, Incorporation, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

SEC. 9088. Of the funds made available in this Act for military personnel appropriations, $3,000,000 shall be available for the payment of bonuses to officers of the Army Nurse Corps, the Navy Nurse Corps and officers designated as Air Force nurses. A bonus, in an amount not to exceed $6,000, may be paid, under such regulations and conditions as the Secretary of Defense deems appropriate, to such an officer: *Provided*, That the officer is on active duty under a call or order to active duty for a period of not less than one year: *Provided further*, That the officer is qualified and performing as an anesthetist: *And provided further*, That this provision shall not be effective unless specifically authorized.

Health care professionals.

SEC. 9089. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States and the District of Columbia, 182,011 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youth shall not be included in this workyear limitation.

Disadvantaged persons.

SEC. 9090. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS II program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS II program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS II program elsewhere.

Contracts.
State and local governments.
Employment and unemployment.

SEC. 9091. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1990 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 9092. No more than $178,419,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

10 USC 2488 note.

SEC. 9093. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Alcohol and alcoholic beverages.
State and local governments.

(TRANSFER OF FUNDS)

SEC. 9094. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, but shall be available only for the time period of the appropriation from which transferred: *Provided further*, That funds shall be transferred between the following appropriations in the amounts specified:

From:
  Under the heading, "Shipbuilding and Conversion, Navy, 1986/90": T-AGOS SURTASS ship program, $3,600,000;
  Under the heading, "Shipbuilding and Conversion, Navy, 1987/91":
    CG-47 cruiser program, $147,100,000;
    T-AGOS SURTASS ship program, $8,500,000;
    Outfitting program, $14,900,000;
To:
  Under the heading, "Shipbuilding and Conversion, Navy, 1985/89": T-AO fleet oiler program, $72,000,000;
  Under the heading, "Shipbuilding and Conversion, Navy, 1986/90":
    MCM mine countermeasures ship program, $5,800,000;
    T-AO fleet oiler program, $11,100,000;
  Under the heading, "Shipbuilding and Conversion, Navy, 1987/91":
    AOE fast combat support ship program, $51,900,000;
    T-AO fleet oiler program, $6,300,000; and
  Under the heading, "Shipbuilding and Conversion, Navy, 1989/93": T-AGOS SURTASS ship program, $27,000,000.

SEC. 9095. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $37,000,000. The Secretary of Defense shall allocate the amount of the reduction

Aircraft and air carriers.
Government organization and employees.
Contracts.

made by the preceding sentence in the procurement and research, development, test and evaluation accounts of the Army, Navy, Air Force, Marine Corps, and Defense Agencies as the Secretary determines appropriate to reflect savings resulting from increased use of discount air fares that (1) are granted by commercial air carriers for travel of Federal Government employees on official Government business under agreements entered into between the Administrator of General Services and such carriers, and (2) are available to contractor personnel traveling in connection with the performance of cost-reimbursable contracts awarded by the Department of Defense.

Fellowships and scholarships.

SEC. 9096. (a) Of the amounts available to the Department of Defense for fiscal year 1990, not less than $10,500,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

(c) Not less than 50 per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiatives Program in "Research, Development, Test and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.

22 USC 2770.

SEC. 9097. Section 30(a) of chapter 2B of the Arms Export Control Act, Public Law 97-392, is amended by inserting "either (i)" immediately after the phrase "such a company" in the first sentence thereof and by adding immediately before the period at the end of that sentence "or (ii) in the case of ammunition parts subject to subsection (b) of this section, using commercial practices which restrict actual delivery directly to a friendly foreign country or international organization pursuant to approval under section 38 of this Act".

Aircraft and air carriers.
Motor vehicles.
Maritime affairs.
Business and industry.

SEC. 9098. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the depot maintenance and repair of aircraft, vehicles, vessels and components, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Secretary shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids.

SEC. 9099. Of the funds appropriated by this Act, no more than $2,500,000 shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98-525.

SEC. 9100. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

Health and medical care. Health care facilities. Uniformed services. Contracts.

SEC. 9101. For the purpose of conducting a demonstration project, to test methods of increasing collections from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents pursuant to section 1095 of title 10, United States Code, the Secretary of Defense is authorized to modify existing Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) regional fiscal intermediary contracts to assist in the administration of activities in connection with such collections: *Provided*, That amounts collected under this section from a third-party payer for the costs of inpatient hospital care provided at a facility of the uniformed services shall be credited to the appropriation supporting the maintenance and operation of the facility.

16 USC 396f note.

SEC. 9102. USE OF ACCOUNTS FOR SALES OF PROPERTIES BY AGENCIES.—(a) AVAILABILITY OF AMOUNTS IN ACCOUNTS.—

(1) IN GENERAL.—Notwithstanding any other law, in addition to the purposes for which they are now available, amounts in the accounts described in paragraph (2) shall, after December 22, 1987, be available for use in any fiscal year for all purposes (including use for purchase) involving any public sale of property by an agency of the United States. In conducting any such sale, such an agency shall accept, in the same manner as cash, any amount tendered from such an account, and the balance of the account shall be adjusted by the Secretary of the Treasury or the Administrator of General Services, as applicable, to reflect that transaction.

(2) ACCOUNTS DESCRIBED.—The accounts referred to in subparagraph (B) are—

(A) the account in the Treasury established by the Secretary of the Treasury pursuant to section 12(b) of Public Law 94-204 (43 U.S.C. 1611 note), referred to in that section as the "Cook Inlet Region, Incorporated property account"; and

(B) the surplus property account established by the Administrator of General Services pursuant to section 317 of Public Law 98-146 (16 U.S.C. 396f).

(b) TREATMENT OF AMOUNT RECEIVED BY AGENCIES FROM ACCOUNTS.—In any case in which an agency of the United States that conducts a public sale of property is authorized by law to use the proceeds of such sale for a specific purpose, the Secretary of the Treasury shall, without restriction, treat as cash receipts any amount which is—

(1) tendered from an account described in subsection (b)(2);

(2) received by the agency as proceeds of such a sale; and

(3) used by the agency for that specific purpose.

(c) AVAILABILITY OF FUNDS.—The Secretary of the Treasury shall hereafter use funds in the Treasury not otherwise appropriated to make any cash transfer that is necessary under subsection (b) to allow an agency to use the proceeds of a public sale of property.

(d) AGENCY DEFINED.—In this section the term "agency" includes—

(1) any instrumentality of the United States; and

(2) any element of an agency.

Indians.

SEC. 9103. Of the funds made available by this Act in title III, Procurement, $8,000,000, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. § 1544. These payments shall be available only to contractors which have submitted subcontracting plans pursuant to 15 U.S.C. § 637(d)(4)(B), and according to regulations which shall be promulgated by the Secretary of Defense within 90 days of the passage of this Act.

Contracts. Regulations.

22 USC 2321i.

SEC. 9104. (a) Section 515(d) of the Foreign Assistance Act of 1961 is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1989" and by striking out "including" and inserting in lieu thereof "excluding".

22 USC 2792.

(b)(1) Section 43(b) of the Arms Control Act is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting "; and" in lieu thereof, and by adding the following paragraph at the end of the subsection:

"(3) such expenses are neither salaries of the Armed Forces of the United States nor represent unfunded estimated costs of civilian retirement and other benefits.".

22 USC 2392.

(2) Section 632(d) of the Foreign Assistance Act of 1961 is amended by adding at the end of the second sentence thereof "(other than salaries of the Armed Forces of the United States and unfunded estimated costs of civilian retirement and other benefits)".

22 USC 2761.

(c) Section 21(e) of the Arms Export Control Act is amended—

(1) by inserting immediately before the semicolon at the end of paragraph (1)(A) "as specified in section 43(b) and section 43(c) of this Act";

(2) by inserting immediately before the semicolon at the end of paragraph (1)(C) "(except for equipment wholly paid for either from funds transferred under section 503(a)(3) of the Foreign Assistance Act of 1961 or from funds made available on a nonrepayable basis under section 23 of this Act)";

(3) by repealing paragraph (1)(B) and relettering paragraphs (1)(C) and (1)(D) as paragraphs (1)(B) and (1)(C), respectively; and

(4) by striking out "paragraphs (1)(B) and (1)(C)" in subsection (e)(2) and inserting in lieu thereof "paragraph (1)(B)".

Post, p. 1599.

(d) Section 1606 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 is amended—

(1) by striking out "One-Year" in the heading of the section and inserting in lieu thereof "Three-Month";

(2) by striking out "One-Year" in subsection (a) and inserting in lieu thereof "Three-Month";

(3) by striking out "October 1, 1990" in subsection (a) and inserting in lieu thereof "January 1, 1990"; and

(4) by striking out "fiscal year 1990" in subsection (a) and inserting in lieu thereof "the first quarter of fiscal year 1990".

Research and development.

SEC. 9105. The Secretary of the Air Force shall transfer not less than $5,000,000 from funds available to the Air Force for research, development, test and evaluation for fiscal year 1990 to the Army for the sole purpose of funding highest priority security improvements at the Kwajalein Test Range. The Secretary of the Army shall provide $2,500,000 for the same purpose from funds available to the Army for research, development, test and evaluation for fiscal year 1990. Funds made available by the Secretary of the Army for such purpose may not be made available from funds otherwise available for the United States Army Kwajalein Atoll Command.

SEC. 9106. From any appropriations in this Act, $1,000,000 shall be made available for maintenance and repair of equipment and facilities and for tooling at the government owned William Langer Jewel Bearing Plant.

(TRANSFER OF FUNDS)

Disaster assistance.

SEC. 9107. Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to repair or replace real property, facilities, equipment, and other Department of Defense assets damaged by hurricane Hugo in September 1989: *Provided*, That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further*, That the Secretary shall notify the Congress promptly of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

(TRANSFER OF FUNDS)

SEC. 9108. Up to $20,000,000 of funds available to the Department of Defense in fiscal year 1990 may be transferred to, and consolidated with, funds made available to carry out the provisions of section 23 of the Arms Export Control Act and may be used for any of the purposes for which such funds may be used, notwithstanding section 10 of Public Law 91-672 or any other provision of law: *Provided*, That funds transferred pursuant to this section shall be made available only for Jordan to maintain previously purchased United States-origin defense articles: *Provided further*, That funds transferred pursuant to this section shall be available to Jordan on a grant basis notwithstanding any requirement for repayment: *Provided further*, That for purposes of section 10 of Public Law 91-672, funds so transferred shall be deemed to be authorized to be appropriated for the account into which they are transferred: *Provided further*, That the Speaker of the House of Representatives and the President of the Senate and the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations and Armed Services of the Senate and House of Representatives shall be notified through regular reprogramming procedures prior to the transfer of funds pursuant to the authority granted in this section.

Jordan.

(TRANSFER OF FUNDS)

SEC. 9109. During the current fiscal year, the Secretary of Defense may transfer not more than $135,000,000 of funds available to the Department of Defense to the appropriation "Atomic Energy Defense Activities", to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided*, That none of the funds to be transferred shall be from procurement or military construction appropriation accounts.

SEC. 9110. (a) Congress makes the following findings:

(1) The United States, as executive agent for the United Nations Command, plays a key role in preserving the armistice

which has maintained peace on the Korean peninsula for 36 years.

(2) Partly because of the significant contribution that the United States has made toward preserving the peace, the Republic of Korea has been able to focus national efforts on economic and political development.

(3) The United States remains committed to the security and territorial integrity of the Republic of Korea under the terms of the Mutual Defense Treaty of 1954.

(b) It is the sense of Congress that—

(1) until North Korea abandons its desire to reunite the Korean peninsula by force and ceases to seek modern weapon systems from foreign powers, the threat to the Republic of Korea will remain clear and present and the United States military presence in the Republic of Korea will continue to be vital to the deterrence of North Korean aggression toward the Republic of Korea;

(2) although a United States military presence is essential until the Republic of Korea has achieved a balance of military power with the Democratic Peoples Republic of Korea, the United States should reassess the force structure required for the security of the Republic of Korea and the protection of the United States interests in northeast Asia;

(3) the United States should not remove any armed forces from the Korean peninsula until a thorough study has been made of the present and projected roles, missions, and force levels of the United States forces in the Republic of Korea; and

President of U.S.
Reports.
Korea.

(4) before April 1, 1990, the President should submit to Congress a report that contains a detailed assessment of the need for a United States military presence in the Republic of Korea, including—

(A) an assessment of (i) the current imbalance between the armed forces of the Republic of Korea and the armed forces of the Democratic Peoples Republic of Korea, and (ii) the efforts by the Republic of Korea to eliminate the current adverse imbalance;

(B) the means by which the Republic of Korea can increase its contributions to its own defense and permit the United States to assume a supporting role in the defense of the Republic of Korea;

(C) the ways in which the roles and missions of the United States forces in Korea are likely to be revised in order to reflect the anticipated increases in the national defense contributions of the Republic of Korea and to effectuate an equal partnership between the United States and the Republic of Korea in the common defense of the Republic of Korea;

(D) an assessment of the actions taken by the Republic of Korea in conjunction with the United States to reduce the cost of stationing United States military forces in the Republic of Korea;

(E) an assessment of the willingness of the South Korean people to sustain and support a continued United States military presence on the Korean peninsula; and

(F) a discussion of the plans for a long-term United States military presence throughout the Pacific region, the anticipated national security threats in that region, the roles and missions of the Armed Forces of the United States for the protection of the national security interests of the United States in that region, the force structure necessary for the Armed Forces to perform those roles and missions, and any force restructuring that could result in a reduction in the cost of performing such roles and missions effectively.

SEC. 9111. PARTNERSHIPS WITH SCHOOLS.—(a) DEFINITIONS.—For the purposes of this section—

(1) The term "school volunteer" means a person, beyond the age of compulsory schooling, working without financial remuneration under the direction of professional staff within a school or school district.

(2) The term "partnership program" means a cooperative effort between the military and an educational institution to enhance the education of students.

(3) The term "elementary school" has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965 and does not exclude military schools.

(4) The term "secondary school" has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965 and does not exclude military schools.

(5) The term "Secretary" means the Secretary of Defense.

(b) The Secretary shall design a comprehensive strategy to involve civilian and military employees of the Department of Defense in partnership programs with elementary schools and secondary schools civilian and military. This strategy shall include:

(1) A review of existing programs to identify and expand opportunities for such employees to be school volunteers.

(2) The designation of a senior official in each branch of the Armed Services who will be responsible for establishing school volunteer and partnership programs in each branch of the Armed Services and for developing school volunteer and partnership programs.

(3) The encouragement of civilian and military employees of the Department of Defense to participate in school volunteer and partnership programs.

New Jersey.
Real property.

SEC. 9112. The Secretary of the Army shall execute such documents and take such other action as may be necessary to release to the New Jersey Turnpike Authority, a corporate body organized under the laws of the State of New Jersey, the reversionary right, described in subsection (b), reserved to the United States in and to that parcel of land conveyed by the United States to the New Jersey Turnpike Authority pursuant to the Act entitled "An Act to authorize the conveyance of certain lands within Caven Point Terminal and Ammunition Loading Pier, New Jersey, to the New Jersey Turnpike Authority", approved February 18, 1956 (70 Stat. 19). The release provided for in this section shall be made without consideration by the New Jersey Turnpike Authority.

(b) The reversionary right referred to in subsection (a) is the right reserved to the United States by section 6 of the Act referred to in subsection (a) which provides that in the event the property conveyed by the United States pursuant to such Act ceases to be used for street or road purposes and other purposes connected therewith or related thereto for a period of two consecutive years, the title to such land, including all improvements made by the New Jersey

Turnpike Authority, shall immediately revert to the United States without any payment by the United States.

Reports.
Nevada.
Public lands.
Aviation.

SEC. 9113. (a) The Congress of the United States finds that—

(1) Public Law 99-606 requires that a report (Special Nevada Report), evaluating the impact on Nevada of the cumulative effect of continued or renewed land and airspace withdrawals by the military, be submitted to Congress no later than November 1991;

(2) Public Law 99-606 also requires that appropriate mitigation measures be developed to offset any negative impacts caused by the military land and airspace withdrawal; and

(3) the military has continued to propose additional land and airspace withdrawals prior to submitting the Special Nevada Report required under Public Law 99-606 to Congress;

(b) Therefore, it is the sense of the Congress that, absent critical national security requirements, the further withdrawal of public domain lands or airspace in Nevada be halted until the Special Nevada Report is submitted to Congress as required under Public Law 99-606.

Wages.
Government organization and employees.

SEC. 9114. (a) Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

(b) Sums appropriated in title I of this Act, Military Personnel, are reduced by $63,000,000, which will be realized by reducing active duty personnel by 5,000: *Provided*, That this subsection does not apply to the reserve components.

(c) Sums appropriated in title II of this Act, Operation and Maintenance, are reduced by $75,000,000, which will be realized by reducing civilian personnel by 2,500: *Provided*, That this subsection does not apply to the reserve components.

SEC. 9115. Of the funds made available in this Act and in the Military Construction Appropriations Act, 1990 for fiscal year 1990 for research, development, test, and evaluation of the Rail Garrison MX and Small ICBM systems, procurement of Mark 21 reentry systems, advance procurement of Rail Garrison MX components or materials, and construction of facilities to support the Rail Garrison MX system, $150,000,000 is hereby reduced as determined by the Secretary of Defense: *Provided*, That section 101(a)(1) that follows "1991"; 101(c); 102(a)(2); 221(b); 702(a); 702(b) and 704(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (H.R. 1487) (including amendments made thereunder), and section 1204 of the Foreign Service Act of 1980 as amended by section 149(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; section 505(e)(3) of title V of the United States Information and Educational Exchange Act of 1948, as amended by section 205 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; and section 404(b) of The Asia Foundation Act as amended by section 501 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; are hereby waived during fiscal years 1990 and 1991: *Provided further*, That so much of the preceding proviso as pertains to the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, shall take effect only on the date of enactment of that Act.

Effective date.

Reports.
Louisiana.
Research and development.
Animals.

SEC. 9116. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act, and until thirty legislative days after the final General Accounting Office report on the aforesaid contract is submitted for review to the Committees on Appropriations in the House and Senate.

Animals.
Research and development.

SEC. 9117. None of the funds appropriated by this Act shall be available for bone trauma research at Letterman Army Institute of Research until the Secretary of the Army has certified to the Committees on Appropriations of the House and Senate that this research has a military application, it is being conducted in accordance with the standards set by an animal care and use committee, and the research is not duplicative of research already conducted by a manufacturer or any other research organization.

Drugs and drug abuse.
Law enforcement and crime.

SEC. 9118. (a) It is the sense of the Congress that United States participation in a multilateral anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel, and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

(b) Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States armed forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.

SEC. 9119. STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT TECHNICAL AMENDMENT.—(a) IN GENERAL.—Section 739 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449) is amended—

(1) by striking subsection (b);

(2) by striking "; Availability of Funds" in the section heading;

(3) in subsection (a) by striking "(a) AUTHORIZATION OF APPROPRIATIONS.—";

(4) by striking "(1)" and inserting "(a) AUTHORIZATION OF APPROPRIATIONS.—";

(5) by striking "(2)" and inserting "(b) RATABLE REDUCTION.—"; and

(6) by striking "(3)" and inserting "(c) SPECIAL RULE.—".

42 USC 11449 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funds obligated during fiscal year 1988 and each fiscal year thereafter.

This Act may be cited as the "Department of Defense Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 3072:

HOUSE REPORTS: No. 101-208 (Comm. on Appropriations) and No. 101-345 (Comm. of Conference).
SENATE REPORTS: No. 101-132 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
- Aug. 4, considered and passed House.
- Sept. 21, 25-28, considered and passed Senate, amended.
- Nov. 15, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and disagreed to certain Senate amendments.
- Nov. 17, Senate agreed to conference report; receded and concurred in certain House amendments, in another with an amendment.
- Nov. 19, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
- Nov. 21, Presidential statement.

○

Public Law 101-166
101st Congress

An Act

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 21, 1989
[H.R. 3566]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1990, and for other purposes, namely:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990.
Department of Labor Appropriations Act, 1990.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $64,693,000 together with not to exceed $53,817,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $3,907,746,000, plus reimbursements, to be available for obligation for the period July 1, 1990, through June 30, 1991, of which $58,996,000 shall be for carrying out section 401, $70,000,000 shall be for carrying out section 402, $9,474,000 shall be for carrying out section 441, $2,000,000 shall be for the National Commission for Employment Policy, $4,100,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $5,150,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, $50,432,000 is appropriated for the Job Corps, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1990 through June 30, 1993; and, in addition, $13,000,000, of which $1,500,000 shall be available for obligation for the period October 1, 1990 through September 30, 1991, is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

39-139 0 - 89 - 1 (166)

For Job Corps program operations authorized by the Job Training Partnership Act, $13,492,000, in addition to amounts otherwise provided herein for these purposes, to be available for obligation for the period July 1, 1989, through June 30, 1990.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $282,360,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $79,640,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $284,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, $22,000,000 together with not to exceed $2,575,200,000 (including not to exceed $3,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1990, and of which $19,148,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1990, through December 31, 1990, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523), and of which $20,800,000 together with not to exceed $768,900,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1990, through June 30, 1991, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1990, through June 30, 1991, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended, and of which $193,468,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1990.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1991, $33,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $75,207,000, of which $6,400,000 for a pension plan data base shall remain available until September 30, 1991: *Provided,* That of the amount appropriated by Public Law 100-202 for a pension plan data base, up to $1,500,000 of unobligated balances as of September 30, 1989 shall remain available for such pension plan data base until September 30, 1990.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1990, for such Corporation: *Provided,* That not to exceed $42,301,000 shall be available for administrative expenses of the Corporation: *Pro-*

vided further, That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $218,322,000, together with $1,019,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $255,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1990.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $640,985,000, of which $590,486,000 shall be available until September 30, 1991, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7), of the Internal Revenue Code of 1954, as amended, and of which $28,640,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $21,350,000 for transfer to Departmental Management, Salaries and Expenses, and $509,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $270,748,000 including not to exceed $60,633,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

Mine Safety and Health Administration

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $170,593,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; 30 USC 962. the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

Bureau of Labor Statistics

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $193,771,000, together with not to exceed $49,518,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

Departmental Management

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,880,000 for the President's Committee on Employment of People With Disabilities, $115,072,000 together with not to exceed $285,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $162,623,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-10 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $41,997,000, together with not to exceed $5,194,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

Oregon.
Real property.

SEC. 105. (a) Within sixty days after the enactment of this Act, the United States, acting through the Secretary of Labor (or an official of the Department of Labor duly authorized by the Secretary of Labor) shall convey to the State of Oregon without consideration, all rights, title, and interest of the United States, in real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property commonly known as the "Emerald Heights Housing Complex" located in the city of Astoria, Clatsop County, Oregon.

This title may be cited as the "Department of Labor Appropriations Act, 1990".

Department of Health and Human Services Appropriations Act, 1990.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, X, XXIV, XVI, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, and the Health Care Quality Improvement Act of 1986, as amended, $1,782,271,000, of which $11,885,000 for health care for the homeless shall be available for obligation for the quarter beginning October 1, 1990, and ending December 31, 1990, of which $889,000, to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, of which $494,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act and of which $4,400,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients: *Provided*, That notwithstanding section 838 of the Public Health Service Act, not to exceed $10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further*, That of this amount, $30,000,000 is available until expended for grants to States for Human Immunodeficiency Virus drug reimbursement, pursuant to section 319 of the Public Health Service Act: *Provided further*, That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $21,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH PROFESSIONS GRADUATE STUDENT LOAN FUND

For carrying out title VII of the Public Health Service Act, $25,000,000, to remain available until expended, for payments on defaulted loans for the Health Education Assistance Loan program.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death resolved during the current fiscal year with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended by Public Law 100-203.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $74,500,000, of which such sums as may be necessary shall be used to reimburse the Vaccine Injury Compensation Trust Fund for any payment of such claims made from the Trust Fund prior to the current fiscal year: *Provided,* That necessary expenses of the Department of Health and Human Services under the National Childhood Vaccine Injury Act of 1986, not to exceed $1,500,000, shall be reimbursed from the Trust Fund.

Centers for Disease Control

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,101,559,000, of which $2,000,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees may be credited to this appropriation: *Provided further,* That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further,* That in addition to amounts provided herein, up to $19,000,000 shall be available from amounts available under section 2613 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 per centum of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only; and, in addition, for high priority construction projects of the Centers for Disease Control, $5,000,000.

National Institutes of Health

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,664,000,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,091,264,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $138,053,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $591,887,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $497,096,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $846,318,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $691,866,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $450,593,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $241,205,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $233,264,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $243,509,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $171,681,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $119,000,000.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $354,191,000: *Provided,* That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $33,969,000.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $60,000,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $15,556,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $83,311,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $108,987,000, including purchase of not to exceed five passenger motor vehicles for replacement only: *Provided,* That $34,000,000 of this amount shall be available only for the purchase of an advanced design supercomputer: *Provided further,* That in addition, the Secretary shall transfer $15,000,000 from appropriations available to each of the Institutes which shall be available for extramural facilities construction grants if authorized in law and if awarded competitively including such amount as he may deem appropriate for research animal production facilities.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, $61,600,000, to remain available until expended.

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,934,177,000, of which $7,359,000 for homeless activities shall be available for obligation for the period October 1, 1990 through September 30, 1991, and, of which $198,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $18,000,000, which shall be available in fiscal year 1990 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury: *Provided further,* That funds appropriated for Federal activities authorized by sections 6 and 9 of the Act, shall remain available through September 30, 1991, and may be used for administrative and maintenance functions in implementing the Act.

Assistant Secretary for Health

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, Public Law 100-505, and subtitle D of title II of Public Law 100-607, $77,352,000, together with not to exceed $1,037,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That in addition to amounts provided herein, up to $14,681,000 shall be available from amounts available under section 2611 of the Public Health Service Act, to carry out the National Medical Expenditure Survey and the Hospital Studies Program.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Department's Medical Care Act (10 U.S.C. ch.55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

MEDICAL TREATMENT EFFECTIVENESS

For expenses necessary for the Public Health Service to support medical effectiveness research, $27,000,000, together with not to exceed $5,000,000 to be transferred and expended as authorized by title VIII, subsection E, section 8413 of the Technical and Miscellaneous Revenue Act of 1988 from the Federal Hospital Insurance and Supplementary Medical Insurance Trust Funds referred to therein.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $30,136,654,000, to remain available until expended.

For making, after May 31, 1990, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1990 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1991, $10,400,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $36,338,500,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, the Clinical Laboratories Improvement Act of 1988, and section 4005(e) of Public Law 100-203, $101,908,000 together with not to exceed $1,917,172,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance, the Federal Supplementary Medical Insurance, the Federal Catastrophic Drug Insurance, and the Federal Hospital Insurance Catastrophic Coverage Reserve Trust Funds: *Provided,* That $100,000,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That all funds derived in accordance with 31 U.S.C. 9701 are to be credited to this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, $5,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of prepayment premiums and interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $191,968,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $648,862,000, to remain available until expended: *Provided,* That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1991, $215,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,098,758,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1991, $3,157,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,837,389,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $97,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads or meet other costs not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

42 USC 1383 note.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, section 903 of Public Law 100-628, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $9,007,946,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1991, $3,000,000,000, to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F and part C (including registration of individuals for such programs, and for related child care and other supportive services as authorized by section 402(a)(19)(G)) of title IV of the Social Security Act, $349,975,000, together with such additional amounts as may be necessary for unanticipated costs incurred for the current fiscal year for carrying out those programs: *Provided,* That the total amount appropriated under this paragraph shall not exceed the limit established in section 403(k)(3) of the Act (as added by section 201(c) of the Family Support Act of 1988): *Provided further,* That a State may not receive more than one-fourth of the amount of its fiscal year 1989 allotment under part C for each quarter in fiscal year 1990 during which part C applies to that State, and a State may not receive more than one-fourth of its annual limitation determined under section 403(k)(2) for each quarter in fiscal year 1990 during which part F applies to that State: *Provided further,* That the quarterly amounts specified in this paragraph shall be the maximum amounts to which the States may become entitled for these purposes.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,393,000,000, of which $60,000,000 shall become available for making payments on September 30, 1990.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $368,822,000, of which $210,000,000 shall be available for State cash and medical assistance.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Section 204(a)(1) of the Immigration Reform and Control Act of 1986 is amended— 8 USC 1255a note.

(1) by inserting "(A)" after "In General.—"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) Funds appropriated for fiscal year 1990 under this section are reduced by $555,244,000.

"(C) For fiscal year 1992, there are appropriated to carry out this section for costs incurred on or after October 1, 1989 (including Federal, State, and local administrative costs) out of any money in the Treasury not otherwise appropriated, $1,000,000,000 (less the amount described in paragraph (2)) less the amount made available for allotments to States under subsection (b) for fiscal year 1990.".

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $396,680,000, of which $8,041,000 for homeless activities shall be available for obligation for the period October 1, 1990 through September 30, 1991, of which $20,254,000 shall be for carrying out section 681(a)(2)(A), $4,013,000 shall be for carrying out section 681(a)(2)(D), $2,948,000 shall be for carrying out section 681(a)(2)(E), $9,669,000 shall be for carrying out section 681(a)(2)(F), $236,000 shall be for carrying out section 681(a)(3), $3,512,000 shall be for carrying out section 408 of Public Law 99-425, and $2,418,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, Public Law 100-628, and section 126 and titles IV and V of Public Law 100-485, $86,806,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native American Programs Act, title II of Public Law 95-266 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Comprehensive Child Development Centers Act of 1988, the Child Development Associate Scholarship Assistance Act of 1985, the Abandoned Infants Assistance Act of 1988 and part B of title IV and section 1110 of the Social Security Act, $2,784,090,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $1,380,048,000, of which $50,000,000 shall be for carrying out section 477 of the Social Security Act.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $80,577,000, of which $19,281,000 shall be available for expenses necessary for the Office of the General Counsel, together with $31,201,000, of which $26,116,000 shall be available for expenses necessary for the Office of the General Counsel, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $50,600,000, together with not to exceed $44,300,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,567,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $5,012,000.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

Grants.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18.

Abortion.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 207. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 208. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

Contracts.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

Children and youth.

AIDS.

SEC. 211. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in the child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 212. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 213. Funds available in this title for activities related to Human Immunodeficiency Virus may be transferred by the Secretary of Health and Human Services between appropriation accounts, except that this section shall not apply to funds made available for fiscal year 1990.

SEC. 214. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 215. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Regulations.

AIDS.
Research and development.

SEC. 216. In administering funds made available under this title for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

SEC. 217. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol Drug Abuse and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $120,000 per year.

Public buildings and grounds.

SEC. 218. The Consolidated Office Building is hereby named the William H. Natcher Building; the Child Health/Neurosciences Building (building 49) is hereby named the Silvio O. Conte Building; the Stone House (building 16) is hereby named the Lawton Chiles International House; the Building numbered 36 is hereby named the Lowell P. Weicker Building.

SEC. 219. Of the funds appropriated in this Act for the National Institutes of Health, a reduction of $4,000,000 is to be applied to all appropriations as a result of improved procurement practices and a reduction of $10,000,000 is to be applied to all appropriations as a result of savings achieved under section 217 of this title.

Education.
AIDS.

SEC. 220. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

SEC. 221. During the twelve-month period beginning October 1, 1989, none of the funds made available under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State pursuant to section 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1990, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1990".

TITLE III—DEPARTMENT OF EDUCATION

Department of Education Appropriations Act, 1990.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $5,434,777,000, of which $5,408,581,000 shall become available on July 1, 1990 and shall remain available until September 30, 1991: *Provided*, That $4,427,250,000 shall be available for basic grants under section 1005, $400,000,000 shall be available for concentration grants under section 1006, $285,938,000 shall be available for migrant education activities under subpart 1 of part D, $148,200,000 shall be available for handicapped education activities under subpart 2 of part D, and $33,197,000 shall be available for delinquent and neglected education activities under subpart 3 of part D, $50,797,000 shall be for section 1404, and $12,699,000 shall be for section 1405: *Provided further*, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further*, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404: *Provided further*, That funds made available under sections 1437 and 1463 may be expended by the Secretary at any time, provided that notices of proposed rules for all currently operating programs authorized under chapter 1 have been published.

From the amounts appropriated for part A of chapter 1, an amount not to exceed $125,000,000 may be obligated to carry out a new Merit Schools program and an amount not to exceed $50,000,000 may be obligated to carry out a new Magnet Schools of Excellence program only if such programs are specifically authorized in law prior to March 1, 1990.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $717,354,000, of which $578,500,000 shall be for payments under section 3(a), $123,500,000 shall be for payments under section 3(b), and $15,354,000 shall be for payments under section 2 of said Act.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $14,998,000, which shall remain available until expended, shall be for construction and renovation of school facilities as authorized by said Act.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I, titles II, III, IV, V, and part B of title VI of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; section 5051 of Public Law 100-690; section 6115 and chapter 5 of subtitle A of title VI of Public Law 100-418; and the Follow Through Act, $1,232,895,000, of which $899,494,000 shall become available on July 1, 1990, and remain available until September 30, 1991, and $2,500,000 shall be for evaluation studies of the magnet schools and chapter 2 block grant programs; $8,892,000 shall be for national program activities under section 2012 and $128,440,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act; $3,964,000 shall be for grants for schools and teachers under subpart 1 and $4,500,000 shall be for family school partnerships under subpart 2 of part B of title III of Public Law 100-297; and $31,084,000 shall be for national programs under part B and $461,477,000 shall be for State and local programs under part A of chapter 2 of title I of the Elementary and Secondary Education Act.

BILINGUAL, IMMIGRANT, AND REFUGEE EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $188,674,000, of which $31,913,000 shall be for part C of title VII including not more than $2,000,000 for the support of not to exceed 200 fellowships under section 7043.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $2,083,776,000, of which $1,564,017,000 for section 611, $255,000,000 for section 619, and $80,624,000 for section 685 shall become available for obligation on July 1, 1990, and shall remain available until September 30, 1991.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, title I of Public Law 100-407, and the Helen Keller National Center Act, as amended, $1,804,870,000, of which $32,674,000 shall be for special demonstration programs under sections 311 (a), (b), and (c) including $15,000,000 for one-time start-up grants to establish a system of regional comprehensive head injury prevention and rehabilitation centers.

Special Institutions for the Handicapped

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,740,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) and for activities under sec. 311 of the Rehabilitation Act of 1973, $36,553,000, of which $325,000 shall be for the endowment program as authorized under section 408 and shall be available until expended, $482,000 shall be for construction and renovation, to remain available until expended, and $900,000 shall be retained by the Secretary for the purpose of supporting a consortium of institutions to provide education and vocational rehabilitation services for low functioning adults who are deaf.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $68,600,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, the Adult Education Act and the Stewart B. McKinney Homeless Assistance Act, $1,138,040,000 which shall become available for obligation on July 1, 1990, and shall remain available until September 30, 1991, of which $23,333,000 shall be for national programs under title IV of the Carl D. Perkins Vocational Education Act including $7,083,000 for research, $11,250,000 for demonstrations, and $5,000,000 for data collection and of which $2,000,000 shall be for national programs under section 383 of the Adult Education Act.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $6,044,097,000 together with an additional $131,000,000 which shall be available only for unfinanced costs in the 1989-90 award year Pell Grant program: *Provided,* That $286,000,000 shall only be available if such funds are necessary to pay a maximum grant of $2,300 during the 1990-1991 program year: *Provided further,* That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further,* That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965 as amended, no basic grant under subpart 1 of part A of title IV of that Act shall be awarded to any student who is attending on a less than half-time basis for a period of enrollment beginning on or after January 1, 1990, except that any such student who received a basic grant for a period of enrollment beginning before January 1, 1990, shall be eligible to receive a basic grant for a period of enrollment beginning on or after such date from funds appropriated for fiscal year 1989: *Provided further,* That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965 as amended, no basic grant under subpart 1 of part A of title IV of that Act shall be awarded from funds appropriated for fiscal year 1990 to any student who is attending on a less than half-time basis: *Provided further,* That any institution participating in any loan program authorized under part B of title IV of the Higher Education Act of 1965 as amended, with a default rate, as determined by the Secretary, that exceeds 30 per centum shall implement a pro rata refund policy that complies with minimum standards established by the Secretary in regulations, for any title IV aid recipient who withdraws before the earlier of six months from the beginning of the course of study for which the loan was received, or the date on which the student completes one-half of that course and these provisos, except as specifically indicated, shall apply to all fiscal year 1990 funds, which shall remain available until September 30, 1991: *Provided further,* That the maximum Pell grant that a student may receive in the 1990–91 award year shall be $2,300.

20 USC 1070a note.

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $3,826,314,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided for, titles I, III, IV, sections 501, 523, and subpart 1 of part D of title V, and titles XII, VI, VII, VIII, IX, and X of the Higher Education Act of 1965, as amended, and the Mutual Educational and Cultural Exchange Act of 1961 and section 140(b) of Public Law 100–202, $632,736,000, of which up to $18,128,000 for endowment activities under section 332 of part C of title III and $22,744,000 for interest subsidies under part D of title VII shall remain available until expended: *Provided,* That $8,740,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d–37(b) and 1070d–39(a)): *Provided further,* That $1,456,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $182,446,000, of which $1,500,000 shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided*, That during fiscal year 1990, gross commitments for the principal amount of direct loans shall be $30,000,000.

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $5,129,000, to remain available until expended.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1990, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING LOANS

Contracts.

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loan program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out section 405 and section 406 of the General Education Provisions Act, as amended, $96,375,000, of which $6,000,000, to remain available until December 31, 1990, shall be for the rural education program conducted by the regional laboratories.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act, $136,646,000 of which $18,900,000 shall be used to carry out the provisions of title

II of the Library Services and Construction Act which shall remain available until expended.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $274,946,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $45,178,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $23,381,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the costs of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

Schools and colleges. Desegregation.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Schools and colleges. Desegregation.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a

particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

Schools and colleges. Desegregation.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

Schools and colleges. Desegregation.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

Religion.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1990".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $176,642,000: *Provided,* That $30,750,000 shall be available for title I of the Act, of which $25,415,000 shall be available for purposes authorized under section 501(d)(1) of the Act.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1992, $327,280,000 of which $76,250,000 shall be available for section 396(k)(10) of said Act: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $26,785,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,030,000.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100-607, $1,000,000.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203, $940,000, which shall remain available until expended.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $750,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $400,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $1,557,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $140,111,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,384,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,970,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,847,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1847 of the Social Security Act, $1,500,000, to be transferred to this appropriation from the Federal Catastrophic Drug Insurance Trust Fund.

Prospective Payment Assessment Commission

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $3,919,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $340,000,000, which shall include amounts becoming available in fiscal year 1990 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided,* That the total amount provided herein shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $63,900,000, to be derived from the railroad retirement accounts: *Provided,* That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $14,100,000 shall be apportioned for fiscal year 1990 from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $3,950,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

Soldiers' and Airmen's Home

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $39,287,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $9,375,000, to remain available until expended.

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, $467,000, which shall remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $7,650,000.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For carrying out activities under Public Law 100-382, $3,250,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

Public information. Contracts.

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

Government organization and employees. Wages.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

Sec. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

Sec. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

Sec. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

Government organization and employees.

Sec. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

Sec. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Sec. 512. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 513. (a) FINDINGS.—The Congress finds that—

(1) illegal drug use is a serious problem of our society and educational institutions;

(2) drug use is incompatible with the educational process and destroys an atmosphere conducive to learning;

(3) our educational institutions and their administrators have traditionally been entrusted with the task of transmitting community values to their students who will lead our Nation in the future; and

(4) our educational institutions have the opportunity to enrich the lives of a significant portion of young Americans during their years in college by encouraging the study of values that enable them to distinguish right from wrong and moral from immoral.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that colleges and universities should demand drug-free campuses and should, with the support of parents, students, and the community, enforce strict but fair policies to eliminate drug use by students.

SEC. 514. (a) Not more than $26,643,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Labor; not more than $85,637,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Health and Human Services; and not more than $41,565,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory and assistance services by the Department of Education.

Reports.

(b)(1) Not later than forty-five days after the end of each fiscal quarter, the head of each department named in subsection (a) shall (A) submit to Congress a report on the amounts obligated and expended by the department during that quarter for the procurement of advisory and assistance services, and (B) transmit a copy of such report to the Comptroller General of the United States.

(2) Each report submitted under paragraph (1) shall include a list with the following information:

(A) All contracts awarded for the procurement of advisory and assistance services during the quarter and the amount of each contract.

(B) The purpose of each contract.

(C) The justification for the award of each contract and the reason the work cannot be performed by civil servants.

(c) The Comptroller General of the United States shall review the reports submitted under subsection (b) and transmit to Congress any comments and recommendations the Comptroller General considers appropriate regarding the matter contained in such reports.

SEC. 515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in the following accounts are a necessary (but secondary) result of significant policy changes: Training and Employment Services; State Unemployment Insurance and Employment Service Operations; Health Resources and Services Program Operations; Alcohol, Drug Abuse, and Mental Health; Low Income Home Energy Assistance; Interim Assistance to States for Legalization; and Community Services Block Grant.

SEC. 516. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a nongovernmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated for Labor-Management Services, Salaries and Expenses are hereby reduced by $1,000,000 and funds appropriated for Employment Standards Administration, Salaries and Expenses are hereby reduced by $2,000,000.

SEC. 518. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Health and Human Services are hereby reduced by $15,000,000: *Provided*, That no trust fund limitation shall be reduced.

SEC. 519. Notwithstanding any other provision of law, no funds appropriated under this Act may be expended for the purpose of implementing in whole or in part the proposed regulation published in the Federal Register on September 1, 1989 (54 FR 36485), relating to the classification of rural referral centers.

Notwithstanding any other provision of law, the amount available for transfer to Health Care Financing Administration Program Management as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance, the Federal Supplementary Medical Insurance, the Federal Catastrophic Drug Insurance, and the Federal Hospital Insurance Catastrophic Coverage Reserve Trust Funds are hereby reduced by $15,000,000.

Drugs and drug abuse.
AIDS.

SEC. 520. None of the funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the President of the United States certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

Communications and telecommunications.

SEC. 521. RESTORATION AND CORRECTION OF DIAL-A-PORN SANCTIONS.—(1) AMENDMENT.—Section 223 of the Communications Act of 1934 (47 U.S.C. 223) is amended by striking subsection (b) and inserting the following:

"(b)(1) Whoever knowingly—

"(A) within the United States, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A),

shall be fined in accordance with title 18, United States Code, or imprisoned not more than two years, or both.

"(2) Whoever knowingly—

"(A) within the United States, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes which is available to any person under 18 years of age or to any other person without that person's consent, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by subparagraph (A), shall be fined not more than $50,000 or imprisoned not more than six months, or both.

"(3) It is a defense to prosecution under paragraph (2) of this subsection that the defendant restrict access to the prohibited communication to persons 18 years of age or older in accordance with subsection (c) of this section and with such procedures as the Commission may prescribe by regulation.

"(4) In addition to the penalties under paragraph (1), whoever, within the United States, intentionally violates paragraph (1) or (2) shall be subject to a fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(5)(A) In addition to the penalties under paragraphs (1), (2), and (5), whoever, within the United States, violates paragraph (1) or (2) shall be subject to a civil fine of not more than $50,000 for each violation. For purposes of this paragraph, each day of violation shall constitute a separate violation.

"(B) A fine under this paragraph may be assessed either—

"(i) by a court, pursuant to civil action by the Commission or any attorney employed by the Commission who is designated by the Commission for such purposes, or

"(ii) by the Commission after appropriate administrative proceedings.

"(6) The Attorney General may bring a suit in the appropriate district court of the United States to enjoin any act or practice which violates paragraph (1) or (2). An injunction may be granted in accordance with the Federal Rules of Civil Procedure.

"(c)(1) A common carrier within the District of Columbia or within any State, or in interstate or foreign commerce, shall not, to the extent technically feasible, provide access to a communication specified in subsection (b) from the telephone of any subscriber who has not previously requested in writing the carrier to provide access to such communication if the carrier collects from subscribers an identifiable charge for such communication that the carrier remits, in whole or in part, to the provider of such communication.

"(2) Except as provided in paragraph (3), no cause of action may be brought in any court or administrative agency against any common carrier, or any of its affiliates, including their officers, directors, employees, agents, or authorized representatives on account of—

"(A) any action which the carrier demonstrates was taken in good faith to restrict access pursuant to paragraph (1) of this subsection; or

"(B) any access permitted—

"(i) in good faith reliance upon the lack of any representation by a provider of communications that communications provided by that provider are communications specified in subsection (b), or

"(ii) because a specific representation by the provider did not allow the carrier, acting in good faith, a sufficient period to restrict access to communications described in subsection (b).

"(3) Notwithstanding paragraph (2) of this subsection, a provider of communications services to which subscribers are denied access pursuant to paragraph (1) of this subsection may bring an action for a declaratory judgment or similar action in a court. Any such action shall be limited to the question of whether the communications which the provider seeks to provide fall within the category of communications to which the carrier will provide access only to subscribers who have previously requested such access.".

(2) CONFORMING AMENDMENTS.—Section 2(b) of the Communications Act of 1934 is amended by striking "section 224" and inserting "section 223 or 224". 47 USC 152.

47 USC 152 note.

(3) **EFFECTIVE DATE.—The amendments made by this subsection shall take effect 120 days after the date of enactment of this Act.**

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 3566:

HOUSE REPORTS: No. 101-354 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
- Nov. 15, considered and passed House.
- Nov. 16, considered and passed Senate, amended.
- Nov. 17, House concurred in certain Senate amendments, in another with an amendment; and disagreed to another.
- Nov. 19, Senate insisted on its amendment No. 5; concurred in House amendment.
- Nov. 20, House receded and concurred in Senate amendment No. 5.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
- Nov. 21, Presidential statement.

○

Public Law 101-167
101st Congress

An Act

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 21, 1989
[H.R. 3743]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1990, and for other purposes, namely:

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTIONS FOR ARREARAGES

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $6,666,667, for the United States contribution to the replenishments, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $75,000,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended: *Provided,* That of this amount not more than $24,544,000 may be expended for the purchase of such stock in fiscal year 1990.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the paid-in share portion of the increase in capital stock, $31,617,983, and for the United States share of the increases in the resources of the Fund for Special Operations, $63,724,629, to remain available until ex-

Discrimination, prohibition.

pended: *Provided*, That the funds made available under this heading shall be withheld from obligation until the Secretary of the Treasury certifies that the Board of Executive Directors of the Inter-American Development Bank has adopted policies to ensure that all recipients of assistance must agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality against any member country, firm or person interested in providing such goods or services: *Provided further*, That the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to use the voice and vote of the United States to oppose any assistance by the Bank to any recipient of assistance who refuses to agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality against any member country, firm or person interested in providing such goods or services: *Provided further*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $137,948,091, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $1,654,000, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

ANNUAL CONTRIBUTIONS TO INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock, for the General Capital Increase, $50,000,795, to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

China.
Loans.
Human rights.

President of U.S.
Reports.

For payment to the International Development Association by the Secretary of the Treasury, $958,333,333, for the United States contribution to the replenishment, to remain available until expended: *Provided*, That $115,000,000 of the funds made available under this heading shall be withheld from obligation until January 1, 1990: *Provided further*, That such funds withheld from obligation may be obligated after January 1, 1990, only if the President certifies: (1) that the International Development Association has not provided any new loans to China since June 27, 1989, or (2) that, if such loans have been provided, the United States Government believes that such loans will support the process of increasing individual freedoms and improving human rights in China: *Provided further*, That fifteen days prior to any obligation of funds for the International Development Association, the President shall report his certification to the Committees on Appropriations of the House and Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate: *Provided further*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $40,000,000, to remain available until expended: *Pro-*

vided, That no such contribution may be made while the United States Executive Director to the Asian Development Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,000,000, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $7,987,308 to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $134,809,613.

CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

For payment to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the International Monetary Fund, $140,000,000 to remain available until expended: *Provided*, That such funds are available subject to authorization: *Provided further*, That none of the funds made available by this paragraph shall be available for obligation or disbursement until the Secretary of the Treasury has assured the Committees on Appropriations in writing that the current policy of the International Monetary Fund (IMF) and the United States Government requiring that all congressional inquiries to IMF employees be cleared through the office of the United States Executive Director of the IMF has been reversed thereby allowing unmonitored and unfettered contact between Congress and IMF employees.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $265,115,000: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: $109,510,000 for the United Nations Development Program; $65,400,000 for the United Nations Children's Fund, of which amount 75 per centum (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum of which shall be expended within thirty days from the start of the United Nations Children's Fund fourth quarter of operations for 1990; $980,000 for the World Food Program; $1,500,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Voluntary Fund for the Decade for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $100,000 for the Intergovernmental Panel on Climate Change; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $22,000,000 for the International Atomic Energy Agency; $12,000,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $110,000 for the United Nations Institute for Namibia; $500,000 for the United Nations Trust Fund for South Africa; $750,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $500,000 for the UNIDO Investment Promotion Service; $10,000,000 for the Organization of American States; and $35,000,000 for the United States contributions to the third replenishment of the International Fund for Agricultural Development: *Provided,* That none of the funds appropriated under this heading shall be made available for the International Fund for Agricultural Development until agreement has been reached on the third replenishment of the Fund: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1990, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $483,715,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations: *Provided further,* That not less than $1,000,000 shall be available for a Farmer-to-Farmer program for Poland, notwithstanding any other provision of law.

POPULATION, DEVELOPMENT ASSISTANCE

Abortion.

For necessary expenses to carry out the provisions of section 104(b), $220,000,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Grants.
Discrimination, prohibition.

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $125,994,000.

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $42,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds made available under this heading $21,000,000 shall be provided directly to the World Health Organization for its use in financing the Global

Program on AIDS, including activities implemented by the Pan American Health Organization.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $71,000,000.

EDUCATION AND HUMAN RESOURCES

DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $134,541,000: *Provided,* That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further,* That not less than $67,270,000 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: *Provided further,* That in fiscal year 1990 the Agency for International Development shall initiate three new bilateral projects in basic primary and secondary education, at least two of which shall be initiated in Sub-Saharan Africa: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program, of which $2,000,000 shall be available, notwithstanding any other provision of law, for students from Poland and Hungary: *Provided further,* That not less than $1,200,000 of the funds appropriated under this heading shall be made available for leadership programs for the Americas that have a demonstrated record of performance: *Provided further,* That not less than $2,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for technical training for the people of Poland and Hungary in skills which would foster the development of a market economy and the private sector, including training in management and agricultural extension: *Provided further,* That not less than $3,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for educational and cultural exchanges with Poland and Hungary, which shall be undertaken in cooperation with the United States Information Agency.

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $149,209,000: *Provided,* That not less than $7,500,000 shall be made available only for cooperative projects among the United States, Israel and developing countries of which not less than $5,000,000 shall be made available for the Cooperative Development Program, and of which not less than $2,500,000 shall be made available for cooperative development research projects: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: *Provided further,* That not less than $2,000,000 of the funds appropriated under this heading or under the heading "Sub-Saharan Africa, Development Assistance", shall be made available for assistance in support of elephant conservation and preservation: *Provided further,* That not less than $3,300,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for assistance to establish an air quality monitoring network in the Krakow, Poland metropolitan area, to improve water quality and the availability of drinking water in the Krakow metropolitan area, and to establish and support a regional environmental center in Budapest, Hungary for facilitating cooperative environmental activities, which activities shall be undertaken in cooperation with the Environmental Protection Agency: *Provided further,* That not less than $10,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for support for retrofitting a coal-fired commercial plant in the Krakow, Poland region with clean coal technology and for assistance to assess and develop the capability within Poland to manufacture or modify equipment that will enable industrial activities within Poland to use fossil fuels cleanly, which activities shall be undertaken in cooperation with the Department of Energy: *Provided further,* That the Administrator of the Agency for International Development or his designee may vest title in any property acquired under the previous two provisos in an entity other than the United States: *Provided further,* That not less than $1,500,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for the provision of technical assistance to Poland and Hungary (1) for the implementation of labor market reforms, and (2) to facilitate adjustment during the period of transition to free labor markets and labor organizations, which activities shall be undertaken in cooperation with the Department of Labor and United States labor and business representatives.

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,662,000.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: *Provided,* That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: *Provided further,* That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall reduce the amount earmarked for assistance for micro-enterprises by an equal amount.

POLAND AND HUNGARY

Notwithstanding any other provision of law, of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $45,000,000 shall be made available for Poland and not less than $5,000,000 shall be made available for Hungary, which funds shall be used in support of the private sector and other economic development programs: *Provided,* That funds made available under this heading shall remain available until September 30, 1991.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $565,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise available for such purposes: *Provided,* That the authorities contained under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), shall be applicable to amounts appropriated under this heading until an Act authorizing assistance for such purposes for the fiscal year 1990 is enacted into law: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading shall be made available only to assist activities supported by the Southern Africa Development Coordination Conference: *Provided further,* That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

ZAIRE

Funds appropriated to carry out chapter 1 of part I which are allocated for Zaire shall be made available through private and voluntary organizations to the maximum extent practicable.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $3,000,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided,* That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, for assistance for the provision of prostheses and related assistance for civilians who have been injured as a result of civil strife and warfare: *Provided,* That this amount shall be derived in equal amounts from part I and from chapter 4 of part II.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for

such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided*, That the Agency for **International Development shall seek to ensure that country strategies, projects, and programs are designed** so that the percentage of **women participants will be demonstrably increased.**

PRIVATE AND VOLUNTARY ORGANIZATIONS

22 USC 2151u note.

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

PRIVATE SECTOR REVOLVING FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $5,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1990, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $3,500,000.

During fiscal year 1990, total commitments to guarantee loans shall not exceed $46,115,020 of contingent liability for loan principal.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $35,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: *Provided*, That not less than $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,147,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $437,000,000: *Provided,* That not more than $15,000,000 (except that payment may be made under this limitation only for those categories of services for which charges have been made under Foreign Affairs Administrative Support both in prior years and in the current year) of this amount shall be for Foreign Affairs Administrative Support.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $31,000,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding section 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to 3 per centum of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further,* That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than two hundred and forty at September 30, 1990.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

President of U.S.
Loans.

During the fiscal year 1990, total commitments to guarantee loans shall not exceed $125,000,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further,* That guarantees issued under this heading shall guarantee 100 per centum of the principal and interest payable on such loans: *Provided further,* That no loans guaranteed under this heading shall be issued or held by the Federal Financing Bank: *Provided further,* That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961 borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1990: *Provided further,* That section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991": *Provided further,* That notwithstanding the prior limitation on total commitments to guarantee loans at not to exceed $125,000,000, during the fiscal year 1990, total commitments to guarantee loans shall not exceed $100,000,000 of contingent liability for loan principal.

22 USC 2182.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,205,000,000: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1989, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Egypt. Commodity Import Program assistance: *Provided further,* That sufficient Egyptian pounds generated from funds made available under this heading or any other heading of this Act shall be made available to the United States pursuant to the United States-Egypt Economic, Technical and Related Assistance Agreements of 1978 (which provide for local currency requirement for programs of the United States in Egypt to be made available to the United States in the manner requested by the United States Government), to enable the United States Embassy in Cairo to restore the endowment entitled "U.S. Government Trustee" to the Egyptian pound equivalent level, at the commercial rate of exchange, of $50,000,000, the level of endowment established by Congress in Public Law 99-88: *Provided further,* That an additional 20,000,000 Egyptian pounds generated from the same sources shall be made available pursuant to the same agreements to enable the United States Embassy in Cairo to establish an endowment to support other United States President of U.S. educational programs in Egypt: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That of the funds appropriated under this heading and allocated for El Salvador, up to $1,500,000 (or the equivalent in local currencies generated with funds provided to El Salvador under this heading) may be made available, notwithstanding section 660 of the Foreign Assistance Act of 1961, to assist the Government of El Salvador's Special Investigative Unit, including for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That section 534(e) of the Foreign 22 USC 2346c. Assistance Act of 1961 is amended by (1) striking "each of fiscal years 1988 and 1989" and inserting in lieu thereof "fiscal year 1990"; and (2) striking "September 30, 1989" and inserting in lieu thereof "September 30, 1990": *Provided further,* That not less than $12,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further,* That not less than $35,000,000 of the funds appropriated under this heading shall be made available for Jordan: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus: *Provided further,* That not less than $230,000,000 of the funds appropriated under this heading shall be made available for Pakistan: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be made available for Morocco: *Provided further,* That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further,* That prior to the initial obligation of assistance for El Salvador from funds appropriated under this heading, the President shall report to the Congress on the extent to which the Government of El Salvador has made demonstrable progress in settling outstanding expropriation claims of American citizens in compliance with the judgment of the Supreme Court of El Salvador: *Provided further,* That the total amount of assistance provided for any country in Central America under this heading and to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 shall not be reduced, from amounts allocated to such country for such purposes for fiscal year 1989, by a percentage greater than the percentage reduction from amounts allocated for any other country in Central America for such purposes for such fiscal year: *Provided further,* That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further,* That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with such funds shall be treated in accordance with section 592 of this Act: *Provided further,* That at least fifteen days prior to obligating any such assistance to a foreign country under this heading, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance): *Provided further,* That not more than $5,000,000 of the funds appropriated under this heading may be made available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further,* That, except as provided by this Act, none of the funds appropriated under this heading by this Act or prior foreign assistance appropriations Acts, shall be made available for tied aid credits in accordance with any provision of law enacted after May 19, 1988: *Provided further,* That not less than $5,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for the humanitarian relief, medical treatment, education and voca-

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Claims.

22 USC 2346 note.

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tional training of victims of the Armenian earthquake of December 7, 1988, which amount shall be channeled through United States private and voluntary organizations and other United States nongovernmental organizations: *Provided further,* That $2,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for the provision of medical supplies and hospital equipment to Poland, including expenses of purchasing, transporting, and distributing such supplies and equipment, and for training Polish medical personnel: *Provided further,* That $1,500,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only to support Solidarity through the AFL-CIO's Free Trade Union Institute to promote democratic activities in Poland: *Provided further,* That not less than $200,000,000 of the funds appropriated under this heading shall be available, notwithstanding any other provision of law, for Poland: *Provided further,* That $2,500,000 of the funds appropriated under this heading shall be available, notwithstanding any other provision of law, to support independent, democratic organizations and activities in Poland and Hungary: *Provided further,* That funds made available under this heading shall remain available until September 30, 1991.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II, $20,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided,* That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That funds made available under this heading shall remain available until expended.

MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961, $160,000,000, which shall be available for the Multilateral Assistance Initiative for the Philippines: *Provided,* That not less than 75 per centum of the funds appropriated under this heading shall be made available for project and sector activities consistent with the purposes of sections 103 through 106 of such Act: *Provided further,* That the President shall seek to channel through indigenous and United States private voluntary organizations and cooperatives not less than $20,000,000 of the funds appropriated under this heading and of the funds appropriated and allocated for the Philippines to carry out sections 103 through 106 of such Act: *Provided further,* That up to a total of $40,000,000 of the funds appropriated to carry out sections 103 through 106 and chapter 4 of part II of such Act may be transferred to and consolidated and merged with the funds appropriated under this heading notwithstanding the limitations on transfers between accounts contained in section 514 of this Act and sections 109 and 610 of the Foreign Assistance Act of 1961: *Provided further,* That any funds transferred to carry out the purposes of this heading shall be made available only for projects and activities which are consistent with the purposes of those funds as initially appropriated: *Provided further,* That

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of the total amount of funds transferred to carry out the purposes of this heading not less than 50 per centum shall be derived from funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act: *Provided further,* That transfers of any funds to carry out the purposes of this heading shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds made available under this heading shall remain available until September 30, 1991: *Provided further,* That none of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $9,000,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision: *Provided further,* That section 507(a)(1) of the African Development Foundation Act is amended by adding at the end thereof the following: "Members of the Board shall be appointed so that no more than four members of the Board are members of any one political party.": *Provided further,* That the amendment to section 507(a)(1) of such Act shall not affect an appointment made to the Board prior to the date of enactment of this Act: *Provided further,* That section 511 of the African Development Foundation Act is repealed.

22 USC 209h-5.

22 USC 290h-5 note.

22 USC 290h-9.

INTER-AMERICAN FOUNDATION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,932,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1990 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $20,000,000.

During the fiscal year 1990, total commitments to guarantee loans shall not exceed $215,000,000 of contingent liability for loan principal: *Provided,* That not less than $40,000,000 of such amount shall be used for projects for Poland, notwithstanding any other provision of law.

Loans.

Except as provided in this Act, no provision of any other Act not enacted into law by May 19, 1988, shall be construed to require the exercise of authority to provide direct loans or to make commitments to guarantee loans contrary to the limitations contained under this heading.

PEACE CORPS

Abortion.

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $168,614,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $115,000,000: *Provided,* That in carrying out the provisions of section 481, increased emphasis should be placed on (1) further intensifying United States efforts in the eradication and interdiction of illicit narcotics, and (2) seeking international cooperation on narcotics enforcement matters such as in the areas of extradition treaties, mutual legal assistance to combat money laundering, sharing of evidence, and other initiatives for cooperative narcotics enforcement efforts: *Provided further,* That of the funds made available under this heading, such funds as the President deems necessary may be made available for the funding of United States participation in a multilateral anti-narcotics strike force not including any Communist or Warsaw Pact troops: *Provided further,* That funds for such a force may only be provided if the Committees on Appropriations of the House of Representatives and of the Senate are notified at least 15 days in advance of the obligation of funds.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $370,000,000: *Provided,* That not less than $25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That of the funds appropriated under this heading not less than $15,000,000 shall be available for Refugee Entrant Assistance: *Provided further,* That of the funds appropriated under this heading not less than $46,000,000 shall be made available for the refugee admission program for first asylum refugees from East Asia: *Provided further,* That section 584(a)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended by striking "8 months" and inserting "one year": *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for a Thailand-Cambodia border refugee protection program: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for the antipiracy program, none of which funds shall be used by any government to deny asylum to individuals seeking asylum: *Provided further,* That not less than $10,000,000 shall be made available to the Republic of Turkey for assistance for shelter, food and other basic needs to ethnic Turkish refugees fleeing the People's Republic of Bulgaria and resettling on the sovereign territory of Turkey: *Provided further,* That section 584(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended by striking "during the 2-year period beginning 90 days after the date of the enactment of this Act" and inserting "during the period beginning on March 22, 1988, and ending on September 30, 1990": *Provided further,* That the sixth proviso under Migration and Refugee Assistance, Department of State, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 is amended by striking "before the end of the 2-year period" and inserting "before the end of the period": *Provided further,* That not more than $8,250,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That of the funds appropriated under this heading, $250,000 shall be made available, notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for displaced Burmese students at camps on the border with Thailand.

8 USC 1101 note.

8 USC 1101 note.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $10,017,000.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,400,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,297,404,194: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, not less than $1,300,000,000 shall be available for grants only for Egypt, not less than $230,000,000 shall be available for grants only for Pakistan, and not less than $48,000,000 shall be available for grants only for Jordan: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That grants provided with funds made Grants. available by this paragraph shall be implemented by grant documents which do not include a requirement to repay the United States Government, notwithstanding any requirement in section 23 of the Arms Export Control Act.

For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $406,000,000: *Provided,* That any funds made available by this paragraph, except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on Foreign Military Financing Program loans shall be not less than 5 per centum per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures: *Provided further,* That during fiscal year 1990, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $406,000,000.

Of the funds appropriated under this heading $500,000,000 only shall be available for Turkey and $350,000,000 only shall be available for Greece and, if Turkey receives any funds under this heading on a grant basis then not less than $30,000,000 of the funds provided for Greece shall be made available as grants: *Provided,* That funds previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act shall be used at any time hereafter only to finance sales made under the Arms Export Control Act: *Provided further,* That of the funds appropriated under this heading not more than $85,000,000 shall be available for El Salvador: *Provided further,* That of the funds appropriated under this heading not more than $9,000,000 shall be available for non-lethal assistance for Guatemala: *Provided further,* That of the funds appropriated under this heading, except through the regular notification procedures of the Committees on Appropriations, not more than $3,000,000 shall be available for Zaire: *Provided further,* That of the funds appropriated under this heading $43,000,000 shall be available for Morocco: *Provided further,* That of the funds appropriated under this heading $30,000,000 shall be available for countries in sub-Saharan Africa: *Provided further,* That none of the funds appropriated under this heading shall be available for Sudan or Somalia, except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That not more than $687,404,194 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to non-lethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That any reference in title V of this Act to "Foreign Military Credit Sales" shall be deemed to be a reference to grants and loans pursuant to the Foreign Military Financing Program under this heading: *Provided further,* That not more than $39,000,000 of the funds appropriated under this heading may be obligated for necesary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That section 515(d) of the Foreign Assistance Act of 1961 is amended by inserting immediately after the word "chapter" the phrase "or the Arms Export Control Act",

Contracts.

22 USC 2321i.

22 USC 2396.

and section 636(g) of that Act is amended by inserting immediately after the phrase "for the purposes of part II" the phrase "or the Arms Export Control Act".

FOREIGN MILITARY SALES DEBT REFORM

22 USC 2764 note.

Funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1990: *Provided,* That such subsection and subsection (a) under such heading are amended by striking "ten" in all places in which that word appears and inserting in lieu thereof "eight".

22 USC 2764 note.

Securities.

GUARANTY RESERVE FUND

If during fiscal year 1990 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

Public debt.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $280,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1990, to remain available for obligation until September 30, 1992: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $33,377,000.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

Contracts.

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1990 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $615,000,000: *Provided,* That gross obligations for the principal amount of direct loans pursuant to the medium-term financing program shall not exceed $215,000,000: *Provided further,* That the interest subsidy authority and the tied aid grants authority provided under this heading are subject to authorization: *Provided further,* That there are hereby appropriated $110,000,000 to be made available for tied aid grants in accordance with section 15 of the Export-Import Bank Act of 1945, as amended, or, at the discretion of the Chairman of the Export-Import Bank, in accordance with the Trade and Development Enhancement Act of 1983, as amended: *Provided further,* That there are hereby appropriated $20,000,000 to be made available for interest subsidy payments in accordance with the Export-Import Bank Act of 1945, as amended: *Provided further,* That none of the funds appropriated under this heading for interest subsidy payments may be used in conjunction with any loan guaranteed from authority provided under this heading: *Provided further,* That the funds made available under this heading for both grant and subsidy purposes shall be subject to the regular notification procedures of the Committees on Appropriations of the House of Representatives and the Senate: *Provided further,* That $110,000,000 of the funds made available for tied aid grant purposes and $20,000,000 of the funds made available for interest subsidy payments shall be subject to the limitation on the gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That funds made available for grants or interest subsidy payments shall be made available only as authorized by law: *Provided further,* That loan guarantee authority available to the Export-Import Bank of the United States may be used by the Bank to participate in the financing of commercial sales of defense articles and services destined for Greece and Turkey, notwithstanding any other provision of law: *Provided further,* That the authority provided by the previous proviso shall not be used for the procurement of defense articles or services for use on Cyprus: *Provided further,* That during the fiscal year 1990, total commitments to guarantee loans shall not exceed $10,384,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan, tied aid grant and interest subsidy authority provided under this heading shall remain available until September 30, 1991.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $22,000,000 (to be computed on an accrual basis) shall be available during fiscal year 1990 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $30,000,000: *Provided,* That except as provided in this or any other Act appropriating funds for foreign operations, export financing, and related programs, no provision of law enacted after May 19, 1988, may transfer funds to, or otherwise make available funds for, the Trade and Development Program.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1990, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $200,000,000 of contingent liability for loan principal for Central America and, notwithstanding any other provision of law, not to exceed $200,000,000 of contingent liability for loan principal for Poland pursuant to the authorities of section 224 of the Foreign Assistance Act of 1961: *Provided,* That section 224(c) of the Foreign

Assistance Act of 1961 is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990". 22 USC 2184.

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

Contracts.

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

Sec. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents: *Provided further,* That such prohibition shall not apply to the Export-Import Bank or its agents if in the judgment of the President its application is not in the national interest of the United States and so reports to Congress.

Loans.
Insurance.
Reports.

MILITARY COUPS

Sec. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

Sec. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

Sec. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1990, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

PROHIBITION ON PUBLICITY OR PROPAGANDA

Sec. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United

States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

Loans.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act for any narcotics-related activities in Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

Loans.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

Classified information.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

Loans.

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SURPLUS COMMODITIES

Minerals and mining.
Exports.
22 USC 262h.

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961 or of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

CONSULTING SERVICES

Contracts.

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization (or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it), the Southwest Africa People's Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided,* That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1991.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group

that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

UNITED NATIONS VOTING RECORD

Reports.
22 USC 2414a.

SEC. 527. (a) IN GENERAL.—Not later than March 31 of each year, the Secretary of State shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete annual report which assesses for the prior calendar year, with respect to each foreign country member of the United Nations, the voting practices of the governments of such countries at the United Nations, and evaluates General Assembly and Security Council actions and the responsiveness of those governments to United States policy on issues of special importance to the United States.

(b) INFORMATION ON VOTING PRACTICES IN THE UNITED NATIONS.—Such report shall include, with respect to voting practices and plenary actions in the United Nations during the preceding year, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of—

(1) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which member countries supported United States policy objectives at the United Nations;

(2) an analysis and discussion, prepared in consultation with the Secretary of State, of actions taken by the United Nations by consensus;

(3) with respect to plenary votes of the United Nations General Assembly—

(A) a listing of all such votes on issues which directly affected important United States interests and on which the United States lobbied extensively and a brief description of the issues involved in each such vote;

(B) a listing of the votes described in subparagraph (A) which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(C) a country-by-country listing of votes described in subparagraph (A); and

(D) a listing of votes described in subparagraph (A) displayed in terms of United Nations regional caucus groups;

(4) a listing of all plenary votes cast by member countries of the United Nations in the General Assembly which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(5) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which other members supported United States policy objectives in the Security Council and a separate listing of all Security Council votes of each member country in comparison with the United States; and

(6) a side-by-side comparison of agreement on important and overall votes for each member country and the United States.

(c) FORMAT.—Information required pursuant to subsection (b)(3) shall also be submitted, together with an explanation of the statistical methodology, in a format identical to that contained in chapter II of the March 14, 1988, Report to Congress on Voting Practices in the United Nations.

(d) STATEMENT BY THE SECRETARY OF STATE.—Each report under subsection (a) shall contain a statement by the Secretary of State discussing the measures which have been taken to inform United States diplomatic missions of United Nations General Assembly and Security Council activities.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The following provisions of law are repealed:

(1) The second undesignated paragraph of section 101(b)(1) of the Foreign Assistance and Related Programs Appropriations Act, 1984 (Public Law 98-151; 97 Stat. 964). 22 USC 2414a.

(2) Section 530 of the Foreign Assistance and Related Programs Appropriations Act, 1985 (Public Law 98-473, 98 Stat. 1837). 22 USC 2414a.

(3) Section 529 of the Foreign Assistance and Related Programs Appropriations Act, 1986, as enacted by Public Law 99-190 (99 Stat. 1185). 22 USC 2414a.

(4) Section 528 of the Foreign Assistance and Related Programs Appropriations Act, 1987, as enacted by Public Law 99-500 (100 Stat. 1783) and Public Law 99-591 (100 Stat. 3341). 22 USC 2414a.

(5) Section 528 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as enacted by Public Law 100-202 (101 Stat. 1329). 22 USC 2414a.

(6) Section 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, as enacted by Public Law 100-461 (101 Stat. 2268). 22 USC 2414a.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 528. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 529. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 530. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 531. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 532. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

ENVIRONMENTAL CONCERNS

Conservation.
Energy.
22 USC 262*l*.

SEC. 533. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) augment and expand the professional staff of each MDB with expertise in end-use energy efficiency and conservation and renewable energy;

(2) develop methodologies which allow borrowing countries to include investments in end-use energy efficiency and renewable energy as explicit alternatives in the "least cost" energy sector investments plans they prepare with MDB assistance. Such plans shall give priority to projects and programs which support energy conservation, end-use efficiency and renewable energy sources in major economic sectors, and shall compare the economic and environmental costs of those actions with the economic and environmental costs of investments in conventional energy supplies;

(3) provide analysis for each proposed loan to support additional power generating capacity, comparing the economic and environmental costs of investments in demand reduction, including energy conservation and end-use energy efficiency, with the economic and environmental costs of the proposal;

(4) assure that systematic, detailed environmental impact assessments (EIA) of proposed energy projects, or projects with potential significant environmental impacts, are conducted early in the project cycle. Assessments should include but not be limited to—

(A) consideration of a wide range of alternatives to the proposed project including, where feasible, alternative investments in end-use energy efficiency and non-conventional renewable energy; and

(B) encouragement and adoption of policies which allow for public participation in the EIA process;

(5) include environmental costs in the economic assessment of the proposed projects with significant potential environmental impacts, or power projects, and if possible for all projects which involve expansion of generating capacity of more than 10 MW, develop a standard increase in project cost as a surrogate for the environmental costs;

(6) encourage and promote end-use energy efficiency and renewable energy in negotiations of policy-based energy sector lending, and MDBs should consider not proceeding with policy-based sector loans which do not contain commitments from the borrowing country to devote a significant portion of its sector investments toward energy efficiency and renewable energy;

(7) provide technical assistance as a component of all energy sector lending to help borrowing countries identify and pursue end-use energy efficiency investments. This technical assistance shall include support for detailed audits of energy use and the development of institutional capacity to promote end-use energy efficiency and conservation;

(8) work with borrowing countries, with input from the public in both borrowing and donor countries, to develop loans for end-use energy efficiency and renewable energy, where possible "bundling" small projects into larger, more easily financed projects; and

(9) seek the convening of a special seminar for board members and senior staff of each MDB concerning alternate energy investment opportunities and end-use energy efficiency and conservation.

(b) The Secretary of the Treasury as a part of the annual report to the Congress shall describe in detail, progress made by each of the MDBs in adopting and implementing programs meeting the standards set out in subsection (a), including in particular—

(1) efforts by the Department of Treasury to assure implementation by each of the MDBs of programs substantially equivalent to those set out in this section, and results of such efforts;

(2) progress made by each MDB in drafting and implementing least cost energy plans for each recipient country which meets requirements outlined in subsection (a)(2);

(3) the absolute dollar amounts, and proportion of total lending in the energy sector, of loans and portions of loans, approved by each MDB in the previous year for projects or programs of

end-use energy efficiency and conservation and renewable energy.

(c) Not later than April 1, 1990, the Secretary of the Treasury shall request each MDB to prepare an analysis of the impact its current forestry sector loans will have on borrowing country emissions of CO_2 and the status of proposals for specific forestry sector activities to reduce CO_2 emissions.

(d)(1) The Administrator of the Agency for International Development shall issue guidance to all Agency missions and bureaus detailing the elements of a "Global Warming Initiative" which will emphasize the need to reduce emissions of greenhouse gases, especially CO_2, through strategies consistent with their continued economic development. This initiative shall emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Agency for International Development shall—

(A) increase the number and expertise of personnel devoted to end-use energy efficiency, renewable energy, and environmental activities in all bureaus and missions;

(B) devote increased resources to technical training of mission directors, in energy planning, energy conservation, end-use energy efficiency, renewable energy, reforestation, and biodiversity;

(C) accelerate the activities of the Multi-Agency Working Group on Power Sector Innovation to enable completion of case studies of at least ten countries in fiscal year 1990; and

(D) devote at least 10 percent of the resources allocated for forestry activities to the preservation and restoration (as opposed to management for extraction) of natural forests.

(3) Funds appropriated by this Act to carry out the provisions of sections 103 to 106 of the Foreign Assistance Act of 1961 may be used to reimburse the full cost of technical personnel detailed or assigned to, or contracted by, the Agency for International Development to provide expertise in the environmental sector.

(4)(A) Section 119(b) of the Foreign Assistance Act of 1961 is amended by inserting ", notwithstanding section 660," after "this part". 22 USC 2151g.

(B) Not less than $10,000,000 of the funds appropriated to carry out the provisions of sections 103 through 106 of such Act (including funds for sub-Saharan Africa) shall be made available for biological diversity activities, of which $2,000,000 shall be made available for the Parks in Peril project, pursuant to the authority of section 119(b) and $1,000,000 shall be available for the National Science Foundation's international biological diversity program.

(C) Funds obligated in prior fiscal years pursuant to the authority of section 119(b) may be expended in fiscal year 1990 pursuant to the authority of such section as amended by subparagraph (A).

(e) The Secretary of the Treasury shall—

(1) instruct the United States Executive Directors to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, the Asian Development Bank, and the International Monetary Fund, to actively support lending portfolios which allow debtor develop-

Reports.

ing countries to reduce or restructure debt in concert with the sustainable use of their natural resources. As a part of any such debt restructuring program, the United States Executive Director should require a thorough review of opportunities this initiative may offer for providing additional financial resources for the management of natural resources. The Secretary shall submit a report to the Committees on Appropriations on the progress of this program by April 30, 1990;

(2) instruct the United States Executive Directors to the international financial institutions to seek the support of other donor countries in the implementation of this policy; and

Reports.

(3) instruct the United States Executive Director to the International Bank for Reconstruction and Development to actively seek the implementation by the World Bank of the recommendations set forth in its April 1, 1988, report on "Debt-for-Nature swaps", including the setting up of a pilot debt-for-nature swap program in one or more interested countries. The Secretary shall submit a progress report on the implementation of this program to the Committees on Appropriations by April 1, 1990.

Reports.

(f) The Secretary of the Treasury shall seek to incorporate natural resource management initiatives throughout the implementation of the Brady Plan. The Secretary shall submit to the Committees on Appropriations a report by April 15, 1990, describing how such initiatives have been incorporated into the Brady Plan and identifying any such initiatives undertaken to date.

(g) The Secretary of the Treasury shall instruct the United States Executive Director to the Inter-American Development Bank to—

(1) seek implementation of the environmental reform measures agreed to as part of the Bank's 7th Replenishment;

(2) seek adoption of Bank policies regarding indigenous people, relations with nongovernmental organizations, and the protection of wildlife and unique natural and cultural features:

(3) require the Bank to demonstrate how it has improved, and will improve, the monitoring of environmental and social components of loans; and

Reports.

(4) within four months after the date of enactment of this Act report to the Committees on Appropriations on the progress the Bank has made in implementing each of these reforms.

GLOBAL WARMING INITIATIVE

Developing countries.

SEC. 534. (a) TROPICAL FORESTRY ASSISTANCE.—(1) In order to achieve the maximum impact from activities relating to tropical forestry, the Agency for International Development shall focus tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases related to global warming as a result of industrialization and the burning of fossil fuels, and destruction of tropical forests.

(2) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation makes a significant contribution to global warming, except that such assist-

ance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(3) In providing assistance relating to tropical forests, the Administrator of that Agency shall, to the extent feasible and appropriate, assist countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry.

(b) ENERGY ASSISTANCE.—(1) In order to achieve the maximum impact from activities relating to energy, the Agency for International Development shall focus energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases. Such assistance shall be focused on improved energy efficiency, increased use of renewable energy resources and national energy plans (such as least-cost energy plans) which include investment in end-use efficiency and renewable energy resources.

(2) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting energy programs aimed at reducing emissions of greenhouse gases related to global warming with regard to the key countries, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(3) It is the sense of the Congress that the Agency for International Development should increase its efforts in the fields of energy efficiency, renewable energy, and energy planning. Such increase should take place with respect to key countries and countries with large Economic Support Fund project assistance. Such efforts should include—

(A) an increase in the number of Agency for International Development staff with energy expertise, including staff with expertise in renewable energy technologies and end-use efficiency;

(B) assistance to develop analyses of energy-sector actions that could minimize emissions of greenhouse gases at least cost, while at the same time meeting basic economic and social development needs. Such assistance should include country-specific analyses which compare the economic and environmental costs of actions to promote energy efficiency and nonconventional renewable energy with the economic and environmental costs of investments to provide additional conventional energy supplies;

(C) assistance to develop energy-sector plans that employ end-use analysis and other techniques to identify the most cost-effective actions to minimize increased reliance on fossil fuels, ensuring to the maximum extent feasible that nongovernmental organizations and academic institutions are involved in this planning;

(D) insuring that AID energy assistance—including support for private-sector initiatives—is consistent with the analyses and plans described in subparagraphs (B) and (C) above, and that environmental impacts (including that on global warming) and alternatives have been fully analyzed;

(E) assistance to improve efficiency in the production, transmission, distribution, and use of energy. Such assistance should focus on the development of institutions to (i) promote energy efficiency in all sectors of energy production and use, (ii) provide training and technical assistance to help energy producers and users identify cost-effective actions to improve energy efficiency, (iii) finance specific investments in energy efficiency in all sectors of energy production and use, and (iv) improve local capabilities in the research, development, and sale of energy efficient technologies;

(F) assistance in exploiting nonconventional renewable energy resources, including wind, solar, small-hydro, geothermal, and advanced biomass systems. This assistance should also promote efficient use of traditional biomass fuels through improved fuelwood management and improved methods of charcoal production;

(G) expanding efforts to meet the energy needs of the rural poor through the methods described in subparagraphs (E) and (F). Specifically these efforts should promote improved efficiency in the use of biomass fuels for household energy, improved systems of fuelwood management, and the development of the nonconventional renewable energy systems described in subparagraph (F);

(H) encouraging host countries to sponsor meetings with officials from the United States utility sector who are leaders in energy efficiency and other United States experts to discuss the application of least-cost planning techniques;

(I) developing a cadre of United States experts from industry, academia, nonprofit organizations, and government agencies capable of providing technical assistance to developing countries concerning energy policy and planning, energy efficiency and renewable energy resources;

(J) in cooperation with the Department of Energy, the Environmental Protection Agency, the World Bank, and the Development Assistance Committee of the OECD, supporting research concerning the ways developing nations can meet their energy needs while minimizing global warming and how to meet those needs; and

(K) strengthening the Agency for International Development's partnership with the Department of Energy in order to ensure that the Agency's energy efforts take full advantage of United States expertise and technology.

(c) REPORTS AND AUTHORITIES.—(1) The Agency for International Development, in consultation with the Environmental Protection Agency (EPA), the Department of State, and other appropriate agencies, shall submit to Congress no later than April 15, 1990, a report which (1) examines the potential contributions of developing countries to future global emissions of greenhouse gases under different economic growth scenarios, (2) estimates the relative contributions of those countries to global greenhouse gas emissions, and (3) identifies specific key countries which stand to contribute significantly to global greenhouse gas emissions, and in which actions to promote energy efficiency, reliance on renewable energy resources, and conservation of forest resources could significantly reduce emissions of greenhouse gases. This report should utilize existing data, including the models and methodologies already developed by the EPA for their report to Congress on policy options for stabilizing global climate.

(2) Of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as

amended, the Agency for International Development may use such amounts as may be necessary to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full costs of employees detailed or assigned to the Agency for International Development for the purpose of carrying out activities relating to forestry and energy programs aimed at reducing emissions of greenhouse gases related to global warming. Personnel who are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

Government organization and employees.

(d) EXPORT-IMPORT BANK.—(1) Of the financing provided by the Export-Import Bank that is utilized for the support of exports for the energy sector, the Bank shall seek to provide not less than 5 per centum of such financing for renewable energy projects..

Energy.
12 USC 635g note.

(2) The Export-Import Bank shall take all appropriate steps to finance information exchanges and training whose purpose it is to help link United States producers in the renewable energy sector with assistance programs and potential foreign customers.

(3) Beginning on April 15, 1990, the Chairman of the Export-Import Bank shall submit an annual report to the Committees on Appropriations on the Bank's implementation of this subsection.

Reports.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 535. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 536. Of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, not less than $70,000,000 shall be made available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law: *Provided*, That of the funds appropriated under the heading "Private Sector, Environment, and Energy, Development Assistance", $13,500,000 shall be transferred to "International Organizations and Programs" and made available only for the United Nations Afghanistan Emergency Trust Fund.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 537. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

President of U.S.
Reports.
Michael
Hammer.
Mark Pearlman.
Jose Rodolfo
Viera.

SEC. 538. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders, and (3) pursued all legal avenues to bring to trial those who ordered and carried out the September 1988 massacre of ten peasants near the town of San Francisco, El Salvador, and to obtain a verdict.

REFUGEE RESETTLEMENT

SEC. 539. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Financing Program", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

IMMUNIZATIONS FOR CHILDREN

SEC. 540. The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 541. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SUDAN, SOMALIA, LEBANON, LIBERIA, AND ZAIRE NOTIFICATION REQUIREMENTS

SEC. 542. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Uganda, Liberia, Lebanon, Zaire, or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 543. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 544. Of the funds made available by this Act for assistance for health, child survival, and AIDS, up to $6,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided*, That personnel who are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

Government organization and employees.

CHILE—LOANS FROM MULTILATERAL DEVELOPMENT INSTITUTIONS

SEC. 545. (a) It is the sense of Congress that pursuant to section 701 of the International Financial Institutions Act of 1977, the United States Government should oppose all loans to Chile from international financial institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) Except for programs under section 534(b) (4) or (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society, assistance for which programs may be made available notwithstanding section 726 of the International Security and Development Cooperation Act of 1981, and assistance under subsection (c) of this section, none of the funds made available by this Act for "Economic Support Fund" or for title III shall be obligated or expended for Chile.

(c)(1) The Congress supports the democratic transition underway in Chile, and intends to assist the new democratically elected government, following its inauguration in March of 1990, with assistance to—

(A) strengthen democratic institutions; and

(B) establish a new relationship with the Chilean armed forces appropriate to a democratic system of government.

(2) Of the funds appropriated by this Act under the heading "International Military Education and Training", up to $50,000 may be made available for Chile for fiscal year 1990, subject to the following conditions—

(A) a civilian, democratically elected President is in power in Chile and has requested such funds;

(B) internationally recognized human rights are being respected and the civilian government is exercising independent and effective authority; and

Orlando Letelier.
Ronni Moffitt.

(C) the Government of Chile is making good-faith efforts in attempting to resolve the murders of Orlando Letelier and Ronni Moffitt.

(3) Assistance may be provided under paragraph (2) without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.

COMMODITY COMPETITION

Agriculture and agricultural commodities.
Exports.

SEC. 546. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this section shall not prohibit:

Developing countries.

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

Research and development.

(2) research activities intended primarily to benefit American producers.

PROHIBITION OF FUNDING RELATED TO COMPETITION WITH UNITED STATES EXPORTS

SEC. 547. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 548. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

ASSISTANCE FOR LIBERIA

President of U.S.

SEC. 549. (a) During fiscal year 1990, in determining whether to furnish economic support fund assistance and foreign military financing under the Foreign Assistance Act of 1961 to Liberia, the President shall take into account whether the Government of Liberia—

(1) has demonstrated its commitment to economic reform, including taking steps to fundamentally change the current financial practice of making extra-budgetary expenditures, including steps to channel the revenues from such major sources as the Liberia Petroleum Refinery Corporation and the Forestry Development Authority through the normal budgetary process; and

(2) has taken significant steps to increase respect for internationally recognized human rights including—

(A) the removal of all restrictions on the right of political parties to operate freely;

(B) the lifting of restrictions on freedom of the press; and

(C) the restoration of an independent judiciary.

RECIPROCAL LEASING

22 USC 2796.

SEC. 550. Section 61(a) of the Arms Export Control Act is amended by striking out "1989" and inserting in lieu thereof "1990".

DEFENSE EQUIPMENT DRAWDOWN

SEC. 551. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided*, That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

22 USC 2318. (b) Section 506(a) of the Foreign Assistance Act of 1961 is amended by—

(1) inserting "(1)" after "(a)";

(2) striking "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(3) inserting the following new paragraph:

"(2)(A) If the President determines and reports to the Congress in accordance with section 652 of this Act that it is in the national interest of the United States to draw down defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, he may direct—

"(i) the drawdown of such articles, services, and the provision of such training for the purposes and under the authorities of chapters 8 and 9 of part I, as the case may be; and

"(ii) the drawdown of defense services for the purposes and under the authorities of the Migration and Refugee Assistance Act of 1962.

"(B) An aggregate value of not to exceed $75,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph.".

(c) Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 552. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 553. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided*, That of the funds appropriated by this Act for the "Economic Support Fund" and "Foreign Military Financing Program" accounts, not more than 33⅓ percent of the amounts made available by this Act for each such account excluding amounts made available for Israel, Egypt, Poland, and Hungary, may be obligated and expended prior to March 1, 1990, unless an Act authorizing appropriations for such account has been enacted

NOTIFICATION CONCERNING EL SALVADOR

SEC. 554. (a) The Congress expects that—

(1) the Government of El Salvador and the armed opposition forces and their political representatives will be willing to pursue a dialog for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C-111-03-984 (relating to aerial fire support);

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in implementing the land reform program.

President of U.S.

(b) REPORTS.—On April 1, 1990, and September 30, 1990, the President shall report to the Speaker of the House of Representatives, the Committees on Appropriations and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (a) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall specify the status of all cases presented to the Salvadoran courts involving human rights violations against civilians by members of the Salvadoran security forces, including military officers and other military personnel and civil patrolmen.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

22 USC 2395a note.

SEC. 555. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements.

MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

SEC. 556. (a) Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the

International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $7,000,000 from funds appropriated under the heading "Economic Support Fund".

(b) Of the funds made available under the heading "Economic Support Fund", $5,000,000 shall be available only for a grant to assist in capitalizing an endowment whose income will be used for scholarships to enable Israeli Arabs to attend institutions of higher education in the United States: *Provided,* That such endowment and scholarship program shall be administered by an organization located in the United States: *Provided further,* That a grant may be made to capitalize such endowment only if private sector contributions of at least $5,000,000 have been made by September 30, 1990, to assist in capitalizing the endowment: *Provided further,* That if the requirement for private sector contributions is not met, funds earmarked for the purpose of the endowment shall be reprogrammed within the Economic Support Fund account.

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 557. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress, that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 558. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Pakistan.

EARMARKS

SEC. 559. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appro-

President of U.S.

priations: *Provided further,* That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

HAITI

SEC. 560. (a) SUSPENSION OF ASSISTANCE.—During fiscal year 1990, none of the funds made available by this Act or by any other Act or joint resolution may be obligated or expended to provide United States assistance (including any such assistance appropriated and previously obligated) for Haiti (other than the assistance described in subsection (b) of this section) unless the Government of Haiti has embarked upon a credible transition to democracy—

(1) by restoring the 1987 Constitution;

(2) by appointing a genuinely independent electoral commission to conduct free, fair, and open elections as soon as possible at all levels, and by giving that commission adequate support; and

(3) by taking adequate steps to provide electoral security.

(b) EXCEPTIONS.—The term "United States assistance" does not include—

(1) assistance, provided through private and voluntary organizations or other nongovernmental agencies, to meet humanitarian and developmental needs or to promote respect for human rights and the transition to democracy;

(2) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961);

(3) assistance for refugees;

(4) assistance under the Inter-American Foundation Act; the Peace Corps Act; and under title IV, chapter 2 of part I, of the Foreign Assistance Act of 1961 (relating to the Overseas Private Investment Corporation);

(5) assistance necessary for the continued financing of education for Haitians in the United States;

(6) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations;

(7) assistance to a genuinely independent electoral commission that is responsible for the holding of elections consistent with the 1987 Constitution;

(8) assistance for the prevention of HIV infection and the control of Haiti's AIDS epidemic and for family planning assistance; or

(9) assistance necessary for the control and eradication of swine flu.

(c) NOTIFICATIONS.—None of the funds appropriated in this Act shall be obligated or expended for Haiti except as provided through the regular notification procedures of the Committees on Appropriations.

(d) DETERMINATION.—Funds may be obligated and expended notwithstanding subsection (a) if the President determines that it is in the national interest of the United States to do so.

ASSISTANCE FOR PANAMA

SEC. 561. (a) Unless the President certifies to Congress that— 22 USC 2151 note.

(1) the Government of Panama has demonstrated substantial progress in assuring civilian control of the armed forces and

that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) an impartial investigation into allegations of illegal actions by members of the Panama Defense Force is being conducted;

(3) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections; and

(4) freedom of the press and other constitutional guarantees, including due process of law, are being restored to the Panamanian people;

then no United States assistance (including any such assistance appropriated and previously obligated) shall be obligated or expended for programs, projects, or activities which assist or lend support for the Noriega regime, or ministries of government under the control of the Noriega regime, or any successor regime that does not meet the criteria specified in subsection (a) of this section in this fiscal year and any fiscal year thereafter, and none of the funds appropriated or otherwise made available in this Act, or any other Act, shall be used to finance any participation of the United States in joint military exercises conducted in Panama during the fiscal year 1990.

(b) It is the sense of the Congress that if the conditions described in paragraphs (1) through (4) of subsection (a) have been certified as having been met, then not only will United States assistance be restored, but increased levels of such assistance should be considered for Panama.

(c) For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank Act of 1945; and

(6) assistance provided by the Central Intelligence Agency or assistance provided by any other entity or component of the United States Government if such assistance is carried out in connection with, or for purposes of conducting, intelligence or intelligence-related activities except that this shall not include activities undertaken solely to collect necessary intelligence;

except that the term "United States assistance" does not include (A) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) assistance under the Inter-American Foundation Act,

(F) assistance necessary for the purpose of continuing participant training programs (including scholarships) already being supported as of the date of any prohibition of assistance otherwise applicable to Panama, or (G) assistance made available for termination costs arising from the requirements of this section.

(d) The Secretary of the Treasury shall instruct the United States Executive Directors to the International Financial Institutions (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in subsection (a) of this section have been met.

Loans.

ELIMINATION OF THE SUGAR QUOTA ALLOCATION OF PANAMA

Imports.

7 USC 3602 note.

SEC. 562. (a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided*, That such products may be imported after the beginning of the last week of any quota year if the President certifies that for the entire duration of the quota year, freedom of the press and other constitutional guarantees, including due process of law, have been restored to the Panamanian people.

(b) REALLOCATION OF QUOTA AMOUNTS.—For any quota year for which the President does not certify for the entire duration of the quota year, freedom of the press and all other constitutional guarantees, including due process of law, have been restored to the Panamanian people, no later than the last week of such quota year, the United States Trade Representative shall reallocate among other foreign countries (but, primarily, among beneficiary countries of the Caribbean Basin Initiative and Bolivia) the quantity of sugar, sirup, and molasses products of Panama that could have been imported into the United States before the date of enactment of this Act under any limitation imposed by other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period: *Provided*, That no one country may receive more than 20 per centum of such reallocation.

(c) CERTIFICATION.—The provisions of subsections (a) and (b), and the amendments made by subsection (c) of section 571 of the Foreign Operations, Export Financing, and Related Programs, Appropriations Act, 1988, shall cease to apply if the President certifies to Congress pursuant to section 561(a) of this Act.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 563. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

Loans.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 564. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1990, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

President of U.S.
Federal Register, publication.

DETENTION OF CHILDREN

SEC. 565. It is the sense of the Congress that the practice of detaining children without charge or trial is unjust, inhumane, and is an affront to civilized principles. The Congress further believes that it should be the policy of the United States to make the ending of the practice of detaining children without charge or trial a matter of the highest priority. Therefore, the Congress believes the Secretary of State should convey to all international organizations that ending the practice of detaining children without charge or trial should be a policy of the highest priority for those organizations.

MILITARY ASSISTANCE TO MOZAMBIQUE

SEC. 566. Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available pursuant to this Act may be used to provide military assistance to Mozambique.

HONDURAS—RAMIREZ CASE

SEC. 567. It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71, the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $5,000,000 of the Economic Support Fund assistance made available by Public Law 100-71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided,* That if a settlement is reached on the property in question, then the additional $10,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 568. Of the funds made available by this Act under the heading "Economic Support Fund", not less than $10,000,000 shall be made available for scholarships for disadvantaged South Africans.

NARCOTICS CONTROL PROGRAM

SEC. 569. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund" $69,000,000 may be made available for Bolivia, Ecuador, Jamaica, and Peru.

(2) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", $35,000,000 may be made available for Bolivia, Ecuador, Jamaica, and Colombia.

(3) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", $3,500,000 shall be made available in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961, only for the procurement of weapons or ammunition for foreign law enforcement agencies, and paramilitary units organized for the specific purposes of narcotics enforcement, for use in narcotics control, eradication, and interdiction efforts: *Provided,* That funds made available under this paragraph shall be made available only for Bolivia, Peru, Colombia, Ecuador, and shall be in addition to any amounts provided for the countries contained in paragraph (2) of this subsection.

(4) Of the funds appropriated by this Act to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, not less than $500,000 shall be made available to finance the testing and use of safe and effective herbicides for use in the aerial eradication of coca.

(5) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", $1,000,000 shall be made available to arm, for defensive purposes, aircraft used in narcotics control, eradication or interdiction efforts: *Provided,* That such funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft.

(6)(A) Of the funds appropriated by this Act to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, up to $2,000,000, except through the regular notification procedures of the Committees on Appropriations, may be made available for Bolivia, Peru, Colombia, and Ecuador, notwithstanding section 660 of such Act, for—

(i) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(ii) the expenses of deploying, upon the request of the government of such foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(B) Education and training under this paragraph may be provided only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(7) Funds made available under this subsection shall be available for obligation consistent with the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control) except as provided in paragraph (3) of this subsection.

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1989, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(B) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

President of U.S.
Bolivia.
Colombia.
Equador.
Peru.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

President of U.S.
22 USC 2291 note.

(d)(1) If any funds made available for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of any provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production of trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(A) Those funds may be transferred to and consolidated with the funds made available to carry out section 481 of the Foreign Assistance Act of 1961 in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funds for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610 of the Foreign Assistance Act.

(B) Any such funds not used under subparagraph (A) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures of the Committees on Appropriations) in order to provide additional security assistance for those countries.

(2) As used in this section, the term "security assistance" means economic support fund assistance, foreign military financing, and international military education and training.

(e) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs) of the Agency for International Development, and $40,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

(f) In order to maximize the participation of other countries in the effort to promote international narcotics control, the Secretary of State is directed to urge the United Nations Fund for Drug Abuse Control to develop a more comprehensive program for enlisting greater multilateral support for coca control programs and related development activities in South America.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

22 USC 2373 note.

SEC. 570. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

President of U.S. Reports.

COMMERCIAL LEASING OF DEFENSE ARTICLES

22 USC 2763 note.

SEC. 571. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIAN NONCOMMUNIST RESISTANCE FORCES

SEC. 572. If the President makes available funds appropriated by this Act for the Cambodian non-Communist resistance forces, not to exceed $7,000,000 may be made available for such purpose, and such funds shall be derived from funds appropriated under the headings "Foreign Military Financing Program" and "Economic Support Fund", and shall be made available notwithstanding any other provision of law: *Provided*, That funds made available for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83): *Provided further*, That, to the maximum extent possible, all funds made available under the authority of this section shall be administered directly by the United States Government.

MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN COUNTRIES

President of U.S.
22 USC 2321j note.

SEC. 573. (a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—

(1) NATO SOUTHERN FLANK COUNTRIES.—The President may transfer—

(A) to any NATO southern flank country which is eligible for United States security assistance and which is integrated into NATO's military structure; and

(B) to any major non-NATO ally on the southern and southeastern flank of NATO which is eligible for United States security assistance, such excess defense articles as may be necessary to help modernize the defense capabilities of such country.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Subject to subsection (f), the President may transfer to any country—

(A) which is a major illicit drug producing country,

(B) which has a democratic government, and

(C) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights, such excess defense articles as may be necessary to carry out subsection (f)(1).

(3) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

(1) they are drawn from existing stocks of the Department of Defense;

(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

(c) NOTIFICATION TO CONGRESS.—

(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until thirty days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

(A) a certification of the need for the transfer;

(B) an assessment of the impact of the transfer on the military readiness of the United States; and

(C) the value of the excess defense articles to be transferred.

(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) of the Foreign Assistance Act of 1961 does not apply with respect to transfers of excess defense articles under this section.

(e) MAINTENANCE OF MILITARY BALANCE IN EASTERN MEDITERRANEAN.—

(1) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 841 of the International Cooperation Act of 1989, of maintaining the military balance in the Eastern Mediterranean.

(2) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, over the three-year period beginning on October 1, 1989, the ratio of—

(A) the value of excess defense articles made available for Turkey under this section, to

(B) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(i) the amount of foreign military financing provided for Turkey, to

(ii) the amount of foreign military financing provided for Greece.

(3) EXCEPTION TO REQUIREMENT.—This subsection shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles under subsection (a).

(f) MAJOR ILLICIT DRUG PRODUCING COUNTRIES IN LATIN AMERICA AND THE CARIBBEAN.—

(1) PURPOSE.—Excess defense articles shall be transferred under subsection (a)(2) for the purpose of encouraging the military forces of an eligible country in Latin America and the Caribbean to participate with local law enforcement agencies in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotrophic drugs or other controlled substances.

(2) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a)(2) only if that country ensures that those excess defense articles will be used only in support of antinarcotics activities.

(3) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a)(2) and insure that any transfer is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

(4) LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a)(2) in any fiscal year may not exceed $10,000,000.

(g) DEFINITIONS.—As used in this section—

(1) the term "excess defense article" has the meaning given that term by section 644(g);

(2) the term "made available" means that a good faith offer is made by the United States to furnish the excess defense articles to a country;

(3) the term "major non-NATO ally" includes Australia, Egypt, Israel, Japan, and New Zealand;

(4) the term "NATO" means the North Atlantic Treaty Organization; and

(5) the term "NATO southern flank countries" means Greece, Italy, Portugal, Spain, and Turkey.

COMPETITIVE INSURANCE

SEC. 574. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

PAY RAISES

SEC. 575. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

IRELAND

SEC. 576. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

ASSISTANCE TO AFGHANISTAN

SEC. 577. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 578. Not less than 25 per centum of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

DISADVANTAGED ENTERPRISES

Africa.

SEC. 579. (a) Except to the extent that the Administrator of the Agency for International Development of the Foreign Assistance Act of 1961 determines otherwise, not less than 10 percent of the aggregate amount made available for the fiscal year 1990 for development assistance and assistance for famine recovery and development in Africa shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 percent of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for famine recovery and development in Africa for fiscal year 1990.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

Contracts.

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

Regulations.

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 percent of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the agency's headquarters in Washington, as well as all agency missions and regional offices, shall notify the agency's Office of Small and Disadvantaged Business Utilization at least 7 business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

Reports.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year.

Regulations.

(6) The Administrator shall issue interim regulations to carry out this section within ninety days after the date of the enactment of this Act and final regulations within one hundred and eighty days after that date.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 133(c)(5) of the International Development and Food Assistance Act of 1977, except that the term includes women.

STINGERS IN THE PERSIAN GULF REGION

SEC. 580. Except as provided in section 581, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

STINGERS FOR BAHRAIN

SEC. 581. (a) PREVIOUSLY TRANSFERRED STINGERS.—Notwithstanding section 580, section 573(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, and section 566(b)(4) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, shall cease to apply with respect to Stingers made available to Bahrain under those sections if the President determines, and notifies the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, that—

(1) the Stingers are needed by Bahrain to counter an immediate air threat or to contribute to the protection of United States personnel, facilities, equipment, or operations;

(2) no other appropriate system is available from the United States;

(3) Bahrain has agreed, in writing, to such safeguards to protect against diversion of the Stingers as may be required by the United States; and

(4) Bahrain has agreed in writing to return to the possession and control of the United States all Stingers made available under those sections and subsection (b) of this section, other than Stingers which have been fired or otherwise destroyed, at any time the United States determines, subject to subsection (c).

(b) REPLACEMENT STINGERS.—Notwithstanding section 580, Stingers may be made available to Bahrain under the Arms Export Control Act or the Foreign Assistance Act of 1961 after September 30, 1989, in order to replace, on a one-for-one basis, Stingers previously made available under this subsection, section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, or section 566 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, that have been fired or otherwise destroyed, subject to the following conditions:

(1) DETERMINATIONS.—Replacement Stingers may be made available to Bahrain pursuant to this subsection only if the President makes the determinations specified in paragraphs (1) through (4) of subsection (a).

(2) NOTICE TO CONGRESS BEFORE STINGERS ARE TRANSFERRED.—At least 30 days before making any replacement Stingers available to Bahrain pursuant to this subsection, the President shall notify the committees designated in subsection (a) that he has made the determinations required by paragraph (1). Any such notification shall include the information required in a certification under section 36(b) of the Arms Export Control Act. This paragraph applies without regard to the value of the Stingers to be made available.

(c) RETURN OF STINGERS TO THE UNITED STATES.—All Stingers made available to Bahrain pursuant to subsections (a) and (b), other

than those fired or otherwise destroyed, shall be returned to the possession and control of the United States not later than September 30, 1991, unless the President—

(1) determines that each of the conditions specified in subsection (a) continues to apply; and

(2) notifies the committees designated in subsection (a) not later than September 15, 1991, in accordance with the regular reprogramming procedures of such committees, that the United States intends to waive the requirement that the Stingers be returned to the United States by the date specified in the subsection.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 582. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

APPROPRIATIONS OF EXCESS CURRENCIES

31 USC 1306 note.

SEC. 583. The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 by any provision of law enacted after the date of enactment of this Act unless such provision makes specific reference to this section.

DEBT-FOR-DEVELOPMENT

SEC. 584. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including debt-for-development and debt-for-nature exchanges, a nongovernmental organization may invest local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be used, including for the establishment of an endowment, for the purpose for which the assistance was provided to that organization.

LEBANON

SEC. 585. Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 not less than $7,500,000 shall be made available for Lebanon: *Provided,* That such funds may be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

JOB-RELATED CRIMES

22 USC 4136.

SEC. 586. (a) Section 1106(8) of the Foreign Service Act of 1980 is amended by inserting at the end thereof the following sentence: "Notwithstanding the first sentence of this paragraph, the Board's authority to suspend such action shall not extend to instances where the Secretary, or his designee, has determined that there is reasonable cause to believe that a grievant has committed a job-related crime for which a sentence of imprisonment may be imposed and has taken action to suspend the grievant without pay pending a final resolution of the underlying matter.".

22 USC 4010.

(b) Section 610(a) of the Foreign Service Act of 1980 is amended by inserting the following new paragraphs:

"(3) Notwithstanding the hearing required by this section, or procedures under any other provision of law, where there is reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed, and there is a nexus to the efficiency of the Service, the Secretary, or his designee, may suspend such member without pay pending final resolution of the underlying matter, subject to reinstatement with back pay if cause for separation is not established in a hearing before the Board.

"(4) Any member suspended pursuant to subsection (a)(3) of this section shall be entitled to—

"(A) advance written notice of the specific reasons for such suspension, including the grounds for reasonable cause to believe a crime has been committed;

"(B) a reasonable time, not less than seven days, to answer orally and in writing;

"(C) be represented by an attorney or other representative; and

"(D) a final written decision.

"(5) Any member suspended pursuant to subsection (a)(3) of this section shall be entitled to grieve such action in accordance with procedures applicable to grievances under chapter 11. The Board review, however, shall be limited only to a determination of whether there exists reasonable cause to believe a crime has been committed for which a sentence of imprisonment may be imposed, and whether there is a nexus between the conduct and the efficiency of the Service.".

22 USC 4010 note.

(c) For purposes of the amendments made by subsections (a) and (b) of this section, reasonable cause to believe that a member has committed a crime for which a sentence of imprisonment may be imposed shall be defined as a member of the Service having been convicted of, and sentence of imprisonment having been imposed for, a job-related crime.

LOCATION OF STOCKPILES

SEC. 587. (a) Except for stockpiles located in the Republic of Korea, Thailand, a country which is a member of the North Atlantic Treaty Organization, or a country which is a major non-NATO ally, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

(b) Section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h) is amended—

(1) in subsection (b)(1), by striking out "greater than" and inserting in lieu thereof "that"; and

(2) in subsection (b)(2), by striking out "$77,000,000 for fiscal year 1989" and inserting in lieu thereof "$165,000,000 for fiscal year 1990".

HONG KONG

SEC. 588. It is the sense of the Congress that the President and Secretary of State should convey to the People's Republic of China and the United Kingdom strong concerns over the absence of full direct elections in the colony and lack of independent human rights guarantees in the draft Basic Law, pending the colony's scheduled reversion to China in 1997.

RESCISSION

SEC. 589. Of the funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, under the heading "Economic Support Fund", $50,000,000 of such funds are hereby rescinded: *Provided*, That such rescission may be derived only from unearmarked funds and funds earmarked under such heading for Sub-Saharan Africa and allocated for Sudan, Somalia, and Liberia.

WEST BANK SCHOOLS

SEC. 590. The United States Congress commends Israel's decision to open schools on the West Bank beginning July 22, 1989.

The Congress expresses the hope that all schools will be opened at an early date and will remain open, will not be used for political purposes, and will be respected and regarded as places of learning, not as places from which to further violent activity.

ASSISTANCE FOR PAKISTAN

SEC. 591. Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "April 1, 1990" and inserting in lieu thereof "April 1, 1991". 22 USC 2375.

SEPARATE ACCOUNTS

SEC. 592. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapter 1 of part I (including assistance for Sub-Saharan Africa) or chapter 4 of part II of the Foreign Assistance Act of 1961 under arrangements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

Contracts.

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) established by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) Uses of Local Currencies.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 of part I or chapter 4 of part II (as the case may be), or

(B) for the administrative requirements of the United States Government.

(3) Programming Accountability.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) Termination of Assistance Programs.—Upon termination of assistance to a country under chapter 1 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(b) Separate Accounts for Cash Transfers.—(1) If assistance is made available to the government of a foreign country, under chapter 1 of part I (including assistance for Sub-Saharan Africa) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) Applicability of Other Provisions of Law.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

President of U.S.

(3) Notification.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) **Exemption.**—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

GLOBAL REDUCTION OF PROVERTY

Sec. 593. (a) The Congress finds that the reduction of poverty on a global basis is a fundamental goal of United States foreign assistance. Therefore, to measure progress toward that goal, the Administrator of the Agency for International Development shall, in consultation with the Congress and other appropriate governmental agencies and nongovernmental agencies and nongovernmental organizations, establish a system of quantitative and qualitative indicators of poverty reduction, which shall be established on a country-by-country basis. These indicators shall include the percentage of persons living below the absolute poverty level, rates of infant and child mortality, rates of literacy for men and women, per capita income and purchasing power, rate of employment, and other factors measuring poverty reduction and economic growth as the Administrator of the Agency for International Development shall deem appropriate.

(b) As part of its annual congressional presentation to Congress, the Agency for International Development shall identify those poverty reduction objectives that have been set for each country receiving development assistance, and the progress that has been achieved in past years and future steps to be taken to achieve them.

INTERNATIONAL MONETARY FUND

Sec. 594. (a) The Secretary of the Treasury shall instruct the United States Executive Director to the International Monetary Fund (IMF) to regularly and vigorously promote the following policy and staffing changes through formal initiatives before the Board and management of the IMF and through bilateral discussions with other member nations:

(1) The addition to the IMF's staff of natural resource experts, and development economists trained in analyzing the linkages between macro-economic conditions and the short- and long-term impacts on sustainable management of natural resources.

(2) In a manner consistent with the purposes of the IMF, the establishment in the IMF of a systematic process to review in advance, and take into account in policy formation, projected impacts of each IMF lending agreement on the long-term sustainable management of natural resources, the environment, public health and poverty.

(3) The creation of criteria to consider concessional and favorable lending terms to promote sustainable management of natural resources. Such capacity should seek the reduction of the debt burden of developing countries in recognition of domestic investments in conservation and environmental management.

Reports.

(b) The Secretary of the Treasury shall prepare an annual report to the Congress on the progress made by the United States Executive Director to the IMF in implementing the reforms encompassed in this section.

EL SALVADOR

SEC. 595. With respect to the ongoing political unrest and armed conflict in El Salvador, the Congress hereby—

(1) welcomes the negotiating process set in motion on September 13, 1989 in Mexico City by the Government of El Salvador and the leadership of the Farabundo Marti National Liberation Front and the expressed willingness of both parties to continue this process;

(2) urges the parties to these negotiations to achieve, as quickly as possible—

(A) a cessation of hostilities; and

(B) an overall political settlement of the ten-year old conflict; and

(3) calls upon the Secretary of State to consult frequently with the Congress on the status of the Salvadoran negotiations and on the efforts being undertaken by the President to support these negotiations.

CENTRAL AMERICAN DEVELOPMENT COORDINATION COMMISSION

SEC. 596. (a) FINDINGS.—The Congress finds that multi-donor foreign assistance funds made available to the Central America region should be channeled through regional institutions which have strong participation in decision-making by Central Americans to ensure adequate coordination among donors.

President of U.S.

(b) ASSISTANCE FOR CADCC.—Upon the request of the governments of Central America, the President shall provide appropriate support and assistance in the development of a coordination mechanism agreed to by the governments of Central America, which shall be designated as the Central American Development Coordination Commission (CADCC). In providing such support and assistance, the President shall, in concert with the governments of Central America, with other nations providing assistance, with the United Nations, and with other concerned international and regional organizations—

(1) encourage and participate in the creation of a multi-donor, multi-sectoral coordinating mechanism known as the CADCC; and

(2) provide not less than $500,000 or more than $1,000,000 of funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund) to be used to assist in the implementation of such Commission, and United States participation therein.

(c) FACTORS IN ESTABLISHING CADCC.—In establishing the CADCC, consideration should be given to:

(1) involving representatives from both the public and private sectors, including representatives from the trade unions and business communities, and nongovernmental organizations at the regional level;

(2) involving regional institutions and multilateral organizations such as the Inter-American Bank, the Central American Bank for Economic Integration (CABEI), the Central American Monetary Council (CMCA), the Economic Commission for Latin America (ECLAC), the International Bank for Reconstruction and Development, and the United Nations in project design, implementation, and coordination; and

(3) establishing in each country a National Recovery and Development Commission, modeled after the National Reconciliation Commissions called for in the Esquipulas II Accords agreed to by the presidents of the five countries of Central America in Guatemala on August 6-7, 1987.

(d) SECRETARIAT OF THE CADCC.—The United Nations Development Programme shall be designated as the social service and refugee and displaced persons technical assistance secretariat for the CADCC.

(e) ELIGIBILITY FOR ASSISTANCE.—The President is authorized to furnish assistance under this section to each country in Central America which is in compliance with the Esquipulas II Accords.

(f)(1) ENCOURAGEMENT OF MULTILATERAL CONTRIBUTIONS.—The Congress urges the President to take the necessary steps to encourage and secure greater international cooperation in, and support for, implementing the recommendations of the International Commission for Central American Recovery and Development.

(2) It is the sense of the Congress that, in carrying out paragraph (1), the President should exert leadership in multilateral and regional forums, and at economic summits to further a multidonor, multisector solution to the crisis in Central America.

ELIGIBILITY OF POLAND AND HUNGARY FOR OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 597. (a) PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 is amended by inserting "Poland, Hungary," after "Yugoslavia,". 22 USC 2199.

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(2) For purposes of this subsection, the term "nongovernmental sector" in Poland and Hungary includes private enterprises, cooperatives (insofar as they are not administered by the Governments of Poland or Hungary), joint ventures (including partners which are not the Governments of Poland or Hungary or instrumentalities thereof), businesses in Poland or Hungary that are wholly or partly owned by United States citizens, including those of Polish or Hungarian descent, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Poland and Hungary has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

(d) EFFECTIVE DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Poland and Hungary shall take effect upon the date of enactment of this Act and shall remain in effect until September 30, 1992.

INTERNATIONAL COFFEE AGREEMENT

SEC. 598. It is the Sense of the Congress that the International Coffee Agreement is an important measure in promoting economic and political stability in many developing countries, including Colombia, that the collapse of the Agreement would seriously undermine Colombia's efforts at fighting illegal drugs, and that the Administration should undertake every possible effort to successfully conclude a renewal of the Agreement.

LATVIA, ESTONIA, AND LITHUANIA

SEC. 599. (a) The Congress finds that—

(1) the Baltic states of Latvia, Estonia, and Lithuania gained their independence from the Russian Socialist Federative Soviet Republic in 1918, a fact recognized by the government of the Russian Socialist Federative Soviet Republic in 1920;

(2) the governments of the Latvian Democratic Republic and the Russian Socialist Federative Soviet Republic (RSFSR) signed a Treaty of Peace in Riga, Latvia on August 11, 1920, in which the RSFSR "establishes the right of self-determination for all nations, even to the point of total separation from the States with which they have been incorporated" and declares that "Russia unreservedly recognizes the independence, self-subsistency and sovereignty of the Latvian State and voluntarily and forever renounces all sovereign rights over the Latvian people and territory which formerly belonged to Russia";

(3) similar treaties were signed by both the Republic of Estonia and the Republic of Lithuania with the RSFSR on February 2, 1920 and July 12, 1920, respectively";

(4) the independent republics of Latvia, Estonia, and Lithuania swiftly recovered from the ravages of World War I and became active in the World community, gaining membership in the League of Nations on September 22, 1921 and full recognition by the United States on July 28, 1922;

(5) the sovereign rights of the independent states of Latvia, Estonia, and Lithuania were violated by the Union of Soviet Socialist Republics in a Secret Protocol to the Nazi-Soviet Treaty of Nonaggression of August 23, 1939, which divided Eastern Europe into Nazi and Soviet "spheres of influence";

(6) the Union of Soviet Socialist Republics coerced the governments of Latvia, Estonia, and Lithuania to sign Pacts of Mutual Assistance in October 1939, which stipulated that the "contracting parties undertake not to enter into any alliances or to participate in any coalitions directed against one of the contracting parties" and that "the carrying into effect of the present pact must in no way affect the sovereign rights of the contracting parties, in particular their political structure, their economic and social system, and their military measures";

(7) the Union of Soviet Socialist Republics violated not only those bilateral agreements with the independent Baltic states but also international conventions on the changing of international borders by force when the Soviet Union issued ultimatums to the three independent nations on June 15-16, 1940, demanding the formation of governments to their liking, fol-

lowed by armed invasions of Lithuania, Latvia, and Estonia on June 16-17, 1940;

(8) the occupation of the Baltic states was confirmed on July 14-15, 1940, with the irregular and illegal "election" of new parliaments, which then petitioned for admission into the Soviet Union, and these petitions were accepted by the Soviet Union, as follows: Lithuania's on August 3, 1940, Latvia's on August 4, 1940, and Estonia's on August 5, 1940;

(9) the Government of the United States continues its policy of standing by the 1922 recognition of the de jure independent governments in the Baltic states, and of refusing to recognize the forced incorporation of the Baltic states into the Soviet Union;

(10) the peoples of Latvia, Estonia, and Lithuania have never accepted the occupation of their native lands, and have demonstrated their resolve on numerous occasions since 1940, most notably in the last three years. The most striking demonstration of the desires of the Baltic people took place on August 23, 1989, the fiftieth anniversary of the Nazi-Soviet Treaty of Nonaggression, when nearly two million citizens of Latvia, Estonia, and Lithuania joined hands in a four-hundred-mile human chain stretching across the Baltic states from the Estonian capital of Tallinn, through the Latvian capital, Riga, to the Lithuanian capital of Vilninus;

(11) the people of the Baltic states, through their elected representatives in the Popular Front of Latvia, the Popular Front of Estonia, and the Lithuanian Movement in Support of Perestroika "Sajudis", have declared their desire for the restoration of independence in the Baltic states; and

(12) even the Communist officials and regimes in each of the Baltic states have begun to respond to the drive for more autonomy.

(b) The Congress urges the President—

(1) to raise the issue of the political rights of the Baltic peoples in all diplomatic contacts with the Soviet Union including during the meeting between President Bush and President Gorbachev in December, 1989 and during the Presidential summit scheduled in 1990 between the United States and the Soviet Union; and

(2) to call upon the Soviet Union—

(A) to honor the international agreements it has voluntarily entered into, such as the Final Act of the Helsinki Conference on Security and Cooperation in Europe and the United Nations Declaration of Human Rights, as well as the bilateral agreements it has voluntarily entered into with the independent governments of Latvia, Estonia, and Lithuania,

(B) to allow the people of Latvia, Estonia, and Lithuania their right of self-determination, as guaranteed by the RSFSR in 1920 as well as by the current constitution of the Soviet Union,

(C) to recognize the human rights of all peoples both within the Soviet Union and under Soviet influence, and

(D) to replace the policy of aggressive industrialization in the Baltic states, which has poisoned the land, air, and water of Latvia, Estonia, and Lithuania, with one of environmental responsibility.

IMPORTATION OF CERTAIN DEFENSE ARTICLES FROM POLAND, CZECHOSLOVAKIA, AND HUNGARY

SEC. 599A. Notwithstanding section 38 of the Arms Export Control Act (22 U.S.C. 2278) or any other provision of law, any article that—

(1) is a defense article for purposes of section 38 of the Arms Export Control Act,

(2) is from Poland, Hungary, or Czechoslovakia,

(3) was imported or temporarily imported into the United States before June 30, 1989, by, or on behalf of, a museum or educational institution that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

(4) was manufactured at least 20 years before its importation into the United States,

(5) has been disabled so that no weapon or weapons system is functional, and

(6) is to be used only for display to the public by the museum or educational institution for educational purposes,

shall be considered to have been lawfully imported into the United States and shall be permitted to remain in the United States, and the museum or educational institution shall not be subject to any penalty by reason of such importation.

HUMAN RIGHTS IN CUBA

SEC. 599B. (1) FINDINGS.—The Congress finds that—

(A) the United Nations in 1989 issued its first report on humans rights in Cuba this year, the result of a year-long investigation that concluded on the 30th year of Fidel Castro's rise to power;

(B) the report extensively documented across-the-board human rights abuses that include cases of torture, missing people, religious persecution, violations of civil and political rights and violations of economic and social rights;

(C) the United Nations received 137 complaints of "torture, cruel, inhuman or degrading treatment or punishment";

(D) among the abuses reported to the United Nations were sensory deprivation, immersion in a pit latrine, mock executions, overcrowding in special cells, deafening loudspeakers, keeping prisoners naked in front of relatives, and forcing a prisoner about to be executed to carry his own coffin or dig his own grave;

(E) the United Nations commissioners also charged the Cuban regime with carrying out reprisals against Cuban citizens who offered testimony to the United Nations group, a clear violation of the Castro's government's promise not to harass those who complained about human rights;

(F) at least 22 Cuban human rights activists who were arrested are currently serving prison sentences or being held without trial;

(G) the Human Rights Commission approved a resolution on March 9, 1989, calling on the Cuban government to cooperate with the Secretary General of the United Nations in settling unresolved issues raised by the human rights study group;

(H) since March 9, 1989, the United Nations has failed to take any substantive action to follow up on the March 9 resolution.

The United Nations also has failed to intervene on behalf of those who are now imprisoned because of their attempts to testify before the United Nations human rights investigative group last fall.

(2) STATEMENT OF POLICY.—In the interest of promoting respect for human rights in Cuba, the Congress—

(A) calls on the Secretary General of the United Nations to act upon the resolution approved by the Commission on Human Rights March 9, 1989, calling on the Secretary General to take appropriate follow up action on the Commission's report;

(B) calls on the Secretary General to specifically urge the Cuban government to release the 22 persons still being held in detention because of their human rights activities;

(C) calls on the United States Ambassador to the United Nations to make known in the strongest terms the dissatisfaction of the United States with the failure by the United Nations to continue to act on its own resolution; and

(D) calls on the Secretary of the United Nations to expand the United Nation's investigation of Cuba to include an examination of labor rights in recognition of current Cuban law which prohibits the formation of independent unions and which has led to the imprisonment of those Cuban workers who have tried to organize themselves.

ASSISTANCE FOR POLAND AND HUNGARY

SEC. 599C. (a) In addition to amounts appropriated under the heading "Trade and Development Program", there is hereby appropriated $2,000,000, to remain available until expended, to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, notwithstanding any other provision of law.

(b) Notwithstanding any other provision of this Act, any funds made available by this Act for a specific activity for Poland or Hungary instead may be obligated for Poland or Hungary for an activity with a similar purpose. The authority of section 515 of this Act may also be used to deobligate such funds and reobligate them for Poland or Hungary for an activity with a similar purpose: *Provided*, That the authority of this subsection shall be exercised subject to the regular notification procedures of the Committees on Appropriations.

(c) Funds made available by this Act and obligated for the Government of Poland shall not be expended if the President of Poland, or any other Polish official, initiates martial law without the consent of the Polish Senate and Sejm, or if members of the Polish Senate or the Sejm are removed from office or are arrested through extraconstitutional processes: *Provided*, That, notwithstanding the restriction on expenditures contained in this subsection, the President of the United States may continue to expend funds made available to Poland if he determines and certifies to Congress that it is in the foreign policy interest of the United States to do so.

ESTABLISHING CATEGORIES OF ALIENS FOR PURPOSES OF REFUGEE DETERMINATIONS

8 USC 1157 note.

SEC. 599D. (a) IN GENERAL.—In the case of an alien who is within a category of aliens established under subsection (b), the alien may establish, for purposes of admission as a refugee under section 207 of the Immigration and Nationality Act, that the alien has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion by asserting such a fear and asserting a credible basis for concern about the possibility of such persecution.

(b) ESTABLISHMENT OF CATEGORIES.—

(1) For purposes of subsection (a), the Attorney General, in consultation with the Secretary of State and the Coordinator for Refugee Affairs, shall establish—

(A) one or more categories of aliens who are or were nationals and residents of the Soviet Union and who share common characteristics that identify them as targets of persecution in the Soviet Union on account of race, religion, nationality, membership in a particular social group, or political opinion, and

(B) one or more categories of aliens who are or were nationals and residents of Vietnam, Laos, or Cambodia and who share common characteristics that identify them as targets of persecution in such respective foreign state on such an account.

(2)(A) Aliens who are (or were) nationals and residents of the Soviet Union and who are Jews or Evangelical Christians shall be deemed a category of alien established under paragraph (1)(A).

(B) Aliens who are (or were) nationals of the Soviet Union and who are current members of, and demonstrate public, active, and continuous participation (or attempted participation) in the religious activities of, the Ukrainian Catholic Church or the Ukrainian Orthodox Church, shall be deemed a category of alien established under paragraph (1)(A).

(C) Aliens who are (or were) nationals and residents of Vietnam, Laos, or Cambodia and who are members of categories of individuals determined, by the Attorney General in accordance with "Immigration and Naturalization Service Worldwide Guidelines for Overseas Refugee Processing" (issued by the Immigration and Naturalization Service in August 1983) shall be deemed a category of alien established under paragraph (1)(B).

(3) Within the number of admissions of refugees allocated for fiscal year 1990 for refugees who are nationals of the Soviet Union under section 207(a)(3) of the Immigration and Nationality Act, notwithstanding any other provision of law, the President shall allocate one thousand of such admissions for such fiscal year to refugees who are within the category of aliens described in paragraph (2)(B).

(c) WRITTEN REASONS FOR DENIALS OF REFUGEE STATUS.—Each decision to deny an application for refugee status of an alien who is within a category established under this section shall be in writing and shall state, to the maximum extent feasible, the reason for the denial.

(d) PERMITTING CERTAIN ALIENS WITHIN CATEGORIES TO REAPPLY FOR REFUGEE STATUS.—Each alien who is within a category established under this section and who (after August 14, 1988, and before the date of the enactment of this Act) was denied refugee status shall be permitted to reapply for such status. Such an application shall be determined taking into account the application of this section.

(e) Period of Application.—

Effective dates.

(1) Subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall only apply to applications for refugee status submitted before October 1, 1990.

(2) Subsection (c) shall apply to decisions made after the date of the enactment of this Act and before October 1, 1990.

(3) Subsection (d) shall take effect on the date of the enactment of this Act and shall only apply to reapplications for refugee status submitted before October 1, 1990.

(f) GAO Reports on Soviet Refugee Processing.—

(1) The Comptroller General shall submit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of this section in Italy and the Soviet Union. Such reports shall include a review of—

(A) the timeliness and length of individual interviews,

(B) the adequacy of staffing and funding by the Department of State, the Immigration and Naturalization Service, and voluntary agencies, including the adequacy of staffing, computerization, and administration of the processing center in Washington,

(C) the sufficiency of the proposed Soviet refugee processing system within the United States,

(D) backlogs (if any) by ethnic or religious groups and the reasons any such backlogs exist,

(E) the sufficiency of the means of distributing and receiving applications for refugee status in Moscow,

(F) to the extent possible, a comparison of the cost of conducting refugee processing only in Moscow and such cost of processing in both Moscow and in Italy, and

(G) an evaluation of efforts to phase out Soviet refugee processing in Italy.

(2) The Comptroller shall submit a preliminary report under paragraph (1) by December 31, 1989, and a final report by March 31, 1990. The final report shall include any recommendations which the Comptroller General may have regarding the need, if any, to revise or extend the application of this section.

ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES

Sec. 599E. (a) In General.—The Attorney General shall adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence if the alien—

8 USC 1255 note.

(1) applies for such adjustment,

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for such adjustment is filed,

(3) is admissible to the United States as an immigrant, except as provided in subsection (c), and

(4) pays a fee (determined by the Attorney General) for the processing of such application.

(b) Aliens Eligible for Adjustment of Status.—The benefits provided in subsection (a) shall only apply to an alien who—

(1) was a national of the Soviet Union, Vietnam, Laos, or Cambodia, and

(2) was inspected and granted parole into the United States during the period beginning on August 15, 1988, and ending on September 30, 1990, after being denied refugee status.

(c) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—The provisions of paragraphs (14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply to adjustment of status under this section and the Attorney General may waive any other provision of such section (other than paragraph (23)(B), (27), (29), or (33)) with respect to such an adjustment for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

Records.

(d) DATE OF APPROVAL.—Upon the approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission as a lawful permanent resident as of the date of the alien's inspection and parole described in subsection (b)(2).

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence under this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act.

REPEAL OF PROVISION

Ante, p. 988.

SEC. 599F. (a) The following provision under the heading "Salaries and Expenses, General Legal Activities", contained in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (H.R. 2991), as enacted into law, is hereby repealed: ": *Provided further,* That for fiscal year 1990 and hereafter the Attorney General may establish and collect fees to cover the cost of identifying, copying and distributing copies of tax decisions rendered by the Federal Judiciary and that any such fees shall be credited to this appropriation notwithstanding the provisions of 31 U.S.C. 3302".

Effective date.

(b) The provisions of subsection (a) shall take effect upon the date of the enactment into law of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (H.R. 2991).

CONDITIONAL ASSISTANCE FOR EL SALVADOR FOR POLICE TRAINING

SEC. 599G. (a) CONDITIONAL ASSISTANCE.—In order to promote the professional development of the security forces of El Salvador and to encourage the separation of the law enforcement forces from the armed forces of El Salvador, funds made available under chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated to El Salvador may, notwithstanding section 660 of that Act, be provided to El Salvador for fiscal year 1990 for purposes otherwise prohibited by section 660 of the Act, if the following conditions are met:

(1) The training provided with such assistance is provided by United States civilian law enforcement personnel.

(2)(A) The assistance is to be used for the purposes of professional development and training of the security forces of El Salvador in such areas as human rights, civil law, investigative and civilian law enforcement techniques, and urban law enforcement training.

(B) Any such assistance that is made available for equipment for these forces is intended to be used for the purchase of equipment such as communication devices, transportation equipment, forensic equipment, and personal protection gear. No such assistance may be used for the purchase of any lethal equipment, except for small arms ammunition and rifle ammunition solely for training purposes.

(3) At least thirty days before obligating such assistance, the President certifies to the Committee of Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee of Foreign Relations and the Committee on Appropriations of the Senate that the Government of El Salvador has made significant progress during the preceding 6 months in eliminating any human rights violations, including torture, incommunicado detention, detention of persons solely for their political views, or prolonged detention without trial. Any such certification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed. Any such certification shall also include a report on the status of all investigative action and prosecutions with respect to those responsible for the 1980 murders of Archbishop Oscar Romero and the four American churchwomen, the recent murder of Ana Casanova, the recent bombings of the headquarters of the FENASTRAS union and the office of COMADRES, a human rights organization, and the recent murder of six Jesuit priests and their associates.

Reports.
Oscar Romero.
Ana Casanova.

(4) REPROGRAMMING.—Funds made available under this subsection shall be subject to the regular reprogramming procedures of the Committees on Appropriations.

(b) DEFINITION.—For purposes of this section, the term "civilian law enforcement personnel" means individuals who are not members of the United States Armed Forces.

(c) Not more than $5,000,000 shall be made available in fiscal year 1990 to carry out the provisions of this section. Not less than $7,000,000 of the funds made available to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 1990 shall be made available for the purposes of subsection 534(b)(3) of the Foreign Assistance Act of 1961.

CROPS IN PERU, BOLIVIA AND JAMAICA

SEC. 599H. Notwithstanding any other provision of law, the President may provide assistance under chapter 1 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 for Peru, Bolivia and Jamaica to promote the production, processing, or marketing of all crops which can be economically grown in areas of those countries which currently produce crops from which narcotic and psychotropic drugs are derived.

LAND REFORM IN EL SALVADOR

SEC. 599I. (a) It is the sense of the Congress that the success and continuation of land reform in El Salvador is vital to United States policy and to political stability, economic development and maintenance of democratic institutions in that country.

(b) Therefore, when allocating Economic Support Funds to El Salvador, the President shall take into consideration progress in the Salvadoran Land Reform Program.

TITLE VI—FUNDING ADJUSTMENTS

REDUCTION OF APPROPRIATIONS

SEC. 601. Each appropriation item, direct loan obligation limit, loan guarantee commitment limit, or obligation limit provided by this Act shall be reduced by 0.43 per centum: *Provided,* That such reduction shall be applied proportionally to each program, project, and activity as set forth in section 543 of this Act: *Provided further,* That programs and activities exempt from sequestration under section 255 of the Deficit Control Act of 1985 shall be exempt from the uniform reduction required by this paragraph.

COUNTER-NARCOTICS PROGRAMS

SEC. 602. For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961 and the Arms Export Control Act, $125,000,000, which shall be made available only for counter-narcotics programs: *Provided,* That none of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 3743:

CONGRESSIONAL RECORD, Vol. 135 (1989):
  Nov. 20, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  Nov. 21, Presidential statement.

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Public Law 101-168
101st Congress

An Act

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1990, and for other purposes.

Nov. 21, 1989
[H.R. 3746]

District of Columbia Appropriations Act, 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1990, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1990, $430,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1990, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $8,685,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $15,000,000.

CRIMINAL JUSTICE INITIATIVE

For an additional amount for the design and construction of a prison within the District of Columbia, $20,300,000 to become available October 1, 1990: *Provided,* That these funds shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obliga-

39-139 O - 89 (168)

tions are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

The $50,000,000 previously appropriated under "Criminal Justice Initiative" for the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1989, for the design and construction of a prison within the District of Columbia shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison: *Provided,* That construction may not commence unless access and parking for construction vehicles are provided solely at a location other than city streets: *Provided further,* That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison.

Communications and telecommunications.
Public information.

DRUG EMERGENCY

For a Federal contribution to the District of Columbia, $31,772,000, to remain available until expended, to close open air drug markets, increase police visibility, and provide for speedier court processing of drug-related violent cases.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $112,971,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $6,726,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $818,000 shall be derived from the general fund and not to exceed $5,908,000 shall be derived from the earnings of the applicable retirement funds: *Pro-*

vided further, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That an additional $150,000 out of local funds shall remain available until expended, to close open air drug markets, increase police visibility, and provide for speedier court processing of drug-related violent cases: *Provided further,* That no part of these funds shall be used for lobbying to support or defeat legislation pending before Congress or any State legislature.

Reports.

ECONOMIC DEVELOPMENT AND REGULATION

Housing.

Economic development and regulation, $137,913,000: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further,* That up to $275,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single-room occupancy initiative.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 130 passenger-carrying vehicles for replacement only for police-type use and 29 additional passenger-carrying vehicles for fire-type use without regard to the general purchase price limitation for the current fiscal year, $861,341,000, of which $150,000 shall be derived by transfer from "Governmental Direction and Support": *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That not to exceed $26,000 shall be available solely for an accreditation study of the Metropolitan Police Department by a recognized law enforcement accreditation organization: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1990, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1990, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1990 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That the staffing levels of each two-piece engine company within the Fire Department shall be maintained in accordance with the provisions of article III, section 18 of the Fire Department Rules and Regulations as then in effect: *Provided further,* That none of the funds provided in this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the National Guard in a militia status and which are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided fur-*

Communications and telecommunications.
Public information.
Virginia.

ther, That such sums as may be necessary for reimbursements to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be deemed as constituting payment in advance for the emergency services involved: *Provided further,* That $17,630,000 for the Metropolitan Police Department and $2,600,000 for the District of Columbia Superior Court shall remain available until expended: *Provided further,* That of funds provided to the Department of Corrections $36,311,000 shall be for the expense of housing D.C. Code violators in Federal Bureau of Prisons facilities, including $5,064,000 of payments previously forgiven.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $691,120,000, to be allocated as follows: $502,346,000 for the public schools of the District of Columbia; $86,300,000 for the District of Columbia Teachers' Retirement Fund; $76,088,000 for the University of the District of Columbia; $18,849,000 for the Public Library; $3,527,000 for the Commission on the Arts and Humanities; $3,440,000 for the District of Columbia School of Law; and $570,000 for the Education Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1990, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That funds provided under this head in Public Law 100-202 (101 Stat. 1329-94) to match private contributions to the District of Columbia Public Schools Foundation shall be available until September 30, 1990.

HUMAN SUPPORT SERVICES

Human support services, $827,918,000: *Provided,* That $18,611,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds provided for the D.C. General Hospital subsidy, $646,000 shall be used to provide health care to homeless persons.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $223,898,000, of which not to exceed $3,600,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

Washington Convention Center Fund

For the Washington Convention Center Fund, $7,874,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual Convention Center audit.

Repayment of Loans and Interest

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act Amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $251,474,000.

Repayment of General Fund Deficit

For the purpose of reducing the $218,872,000 general fund accumulated deficit as of September 30, 1988, $20,000,000, of which not less than $442,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1990 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), as amended, the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order: *Provided further,* That all net revenue the District of Columbia government may collect as a result of the District of Columbia government's pending appeal in the consolidated case of U.S. Sprint Communications, et al. v. District of Columbia et al., CA 10080-87 (court order filed November 14, 1988), shall be applied solely to the repayment of the general fund accumulated deficit.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $10,997,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $2,569,000.

ENERGY ADJUSTMENT

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $2,000,000, within one or several of the various appropriation headings in this Act.

EQUIPMENT ADJUSTMENT

The Mayor shall reduce authorized equipment appropriations and expenditures within object class 70 (equipment) in the amount of $6,100,000, within one or several of the various appropriation headings in this Act.

PERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14 in the amount of $31,550,000, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $134,650,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That $10,556,000 shall be available for project management and $26,319,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That $20,300,000 of the $134,650,000 shall be available solely for the Correctional Treatment Facility to be constructed in the District of Columbia which is financed with Federal funds appropriated to the District of Columbia for fiscal year 1991: *Provided further,* That $547,000 for the Department of Recreation and $3,080,000 for the Department of Public Works for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1991, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1991: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $199,382,000, of which $34,964,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $29,700,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further,* That of the $27,085,000 in water and sewer enterprise fund operating revenues for pay-as-you-go capital projects, $1,200,000 shall fund new authority in the fiscal year 1990 capital budget and $25,885,000 shall fund prior year capital budget authority.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981, (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,600,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $1,600,000.

GENERAL PROVISIONS

Contracts.

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-

205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personnel compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1990, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 39,262.

SEC. 110A. (a) No funds appropriated by this Act may be expended for the compensation of any person appointed to fill any vacant position in any agency under the personnel control of the Mayor unless:

(1) The position is to be filled by a sworn officer of the Metropolitan Police Department; or

(2) The position is to be filled as follows:

(A) By a person who is currently employed by the District of Columbia government at a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(b) Subsection (a) of this section shall not apply to any position for which the City Administrator certifies that:

(1) The position is necessary to the fulfillment of an identified essential governmental function; and

(2) The position cannot be filled from within the District of Columbia government:

(A) At a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position.

(c) The City Administrator shall submit the certification required by subsection (b) of this section to the Council on the 1st day of each month.

SEC. 110B. (a) APPLICATION FOR EMPLOYMENT, PROMOTIONS, AND REDUCTIONS IN FORCE.—

(1) IN GENERAL.—The rules issued pursuant to the amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203) shall include the provisions described in paragraph (2).

(2) DESCRIPTION OF POLICIES.—

(A) POLICY REGARDING APPLICATION FOR EMPLOYMENT.— The Mayor of the District of Columbia may not give an applicant for District of Columbia government employment in the Career Service who claims a District residency preference more than a 5 point hiring preference over an applicant not claiming such a preference, and, in the case of equally qualified applicants, shall give an applicant claiming such a preference priority in hiring over an applicant not claiming such a preference.

(B) POLICY REGARDING PROMOTIONS AND REDUCTIONS IN FORCE FOR CAREER SERVICE EMPLOYEES.—In calculating years of service for the purpose of implementing a reduction-in-force, the Mayor may not credit an employee in the Career Service who claims a District residency preference with more than 1 year of additional service credit, and in the case of equally qualified employees, shall give an employee claiming such a preference priority in promotion over an employee not claiming such a preference.

(C) INDIVIDUALS SUBJECT TO PROVISIONS.—The amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 shall apply only with respect to individuals claiming a District residency preference or applying for employment with the District of Columbia on or after March 16, 1989.

(b) SCOPE OF 5-YEAR DISTRICT RESIDENCY REQUIREMENT FOR EMPLOYEES CLAIMING PREFERENCE.—

(1) CAREER SERVICE EMPLOYEES.—Section 801(e) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1-608.1(e), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service.

"(B) The Mayor shall provide notice to each employee in the Career Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989.".

(2) EDUCATIONAL SERVICE EMPLOYEES.—Section 801A(d) of such Act (section 1-609.1(d), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7-203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Boards may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Services.

"(B) The Boards shall provide notice to each employee in the Educational Service of the provisions of this subsection that require an employee claiming a residency preference to maintain District residency for 5 consecutive years, and shall only apply such provisions with respect to employees claiming a residency preference on or after March 16, 1989.".

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during nonschool hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1991, shall be transmitted to the Congress no later than April 15, 1990.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

Abortion.

SEC. 117. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Drugs and drug abuse.

Reports.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

Sec. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

Sec. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1989 shall be deemed to be the rate of pay payable for that position for September 30, 1989.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

Sec. 126. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

Sec. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

Sec. 128. No later than 30 days after the end of the first quarter of fiscal year 1990, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1990 revenue estimates as of the end of the first quarter of fiscal year 1990. These estimates shall be used in the fiscal year 1991 annual budget request. The officially revised estimates at midyear shall be used for the midyear report.

Sec. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December

24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1989" and inserting in lieu thereof "sold before October 1, 1990".

Contracts.

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 132. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act which are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 133. (a) It is the purpose of this section to improve the means by which the District of Columbia is paid for water and sanitary sewer services furnished to the Government of the United States or any department, agency, or independent establishment thereof.

(b) Section 106 of title I of the District of Columbia Public Works Act of 1954 (68 Stat. 102; D.C. Code, sec. 43-1552) is amended by—

(1) striking in subsection (a) all that follows the sentence beginning with "Payment shall be made as provided in subsection (b)"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990, the government of the District of Columbia shall receive payment for water services from funds appropriated or otherwise available to the Federal departments, independent establishments, or agencies. In accordance with the provisions of paragraphs (2) and (3) of this subsection, one-fourth (25 percent) of the annual estimate prepared by the District government shall be paid, not later than the second day of each fiscal quarter, to the District government by the Secretary of the Treasury from funds deposited by said departments, establishments, or agencies in a United States Treasury account entitled 'Federal Payment for Water and Sewer Services'. In the absence of sufficient funds in said account, payment shall be made by the Secretary of the Treasury from funds available to the United States Treasury and shall be reimbursed promptly to the United States Treasury by the respective user agencies. Payments shall be made to the District government by the Secretary of the Treasury without further justification, and shall be equal to one-fourth (25 percent) of the annual estimate prepared by the District government pursuant to paragraph (2) of this subsection.

"(2) By April 15 of each calendar year the District shall provide the Office of Management and Budget, for inclusion in the President's budget of the respective Federal departments, independent establishments, or agencies, an estimate of the cost of service for the fiscal year commencing October 1st of the following calendar year. The estimate shall provide the total estimated annual cost of such service and an itemized estimate of such costs by Federal department, independent establishment, or agency. The District's estimates on a yearly basis shall reflect such adjustments as are necessary to (1) account for actual usage variances from the estimated amounts for the fiscal year ending on September 30th of the calendar year preceding April 15th, and (2) reflect changes in rates charged for water and sewer services resulting from public laws or rate covenants pursuant to water and sewer revenue bond sales.

"(3) Each Federal department, independent establishment, or agency receiving water services in buildings, establishments, or other places shall pay from funds specifically appropriated or otherwise available to it, quarterly and on the first day of each such fiscal quarter, to an account in the United States Treasury entitled 'Federal Payment for Water and Sewer Services' an amount equal to one-fourth (25 percent) of the annual estimate for said services as provided for in paragraph (2) of this subsection.

"(4) The amount or time period for late payment of water charges involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(c) Section 212 of the District of Columbia Public Works Act of 1954 (68 Stat. 108; D.C. Code, sec. 43-1612) is amended by—

(1) striking in subsection (a) all that follows ": *Provided*, That"; and

(2) amending subsection (b) to read as follows:

"(b)(1) Beginning in the second quarter of fiscal year 1990, the government of the District of Columbia shall receive payment for sanitary sewer services from funds appropriated or otherwise available to the Federal departments, independent establishments, or agencies. In accordance with the provisions of paragraphs (2) and (3) of this subsection, one-fourth (25 percent) of the annual estimate prepared by the District government shall be paid, not later than the second day of each fiscal quarter, to the District government by the Secretary of the Treasury from funds deposited by said departments, establishments, or agencies in a United States Treasury account entitled 'Federal Payment for Water and Sewer Services'. In the absence of sufficient funds in said account, payment shall be made by the Secretary of the Treasury from funds available to the United States Treasury and shall be reimbursed promptly to the United States Treasury by the respective user agencies. Payments shall be made to the District government by the Secretary of the

Treasury without further justification, and shall be equal to one-fourth (25 percent) of the annual estimate prepared by the District government pursuant to paragraph (2) of this subsection.

"(2) By April 15 of each calendar year the District shall provide the Office of Management and Budget, for inclusion in the President's budget of the respective Federal departments, independent establishments, or agencies, an estimate of the cost of service for the fiscal year commencing October 1st of the following calendar year. The estimate shall provide the total estimated annual cost of such service and an itemized estimate of such costs by Federal department, independent establishment, or agency. The District's estimates on a yearly basis shall reflect such adjustments as are necessary to (1) account for actual usage variances from the estimated amounts for the fiscal year ending on September 30th of the calendar year preceding April 15th, and (2) reflect changes in rates charged for water and sewer services resulting from public laws or rate covenants pursuant to water and sewer revenue bond sales.

"(3) Each Federal department, independent establishment, or agency receiving sanitary sewer services in buildings, establishments, or other places shall pay from funds specifically appropriated or otherwise available to it, quarterly and on the first day of each such fiscal quarter, to an account in the United States Treasury entitled 'Federal Payment for Water and Sewer Services' an amount equal to one-fourth (25 percent) of the annual estimate for said services as provided for in paragraph (2) of this subsection.

"(4) The amount or time period for late payment of charges for sanitary sewer services involving a building, establishment, or other place owned by the Government of the United States imposed by the District of Columbia shall not be different from those imposed by the District of Columbia on its most favored customer.".

(d) The first sentence of subsection (d) of section 207 of the District of Columbia Public Works Act of 1954 (68 Stat. 106) is amended to read as follows: "Whenever a property upon which a sanitary sewer service charge is a public park, or uses water from the water supply system of the District for an industrial or commercial purpose in such a manner that the water so used is likewise not discharged into the sanitary sewage works of the District, the quantity of water so used and not discharged into the sanitary sewage works of the District may be excluded in determining the sanitary sewer service charge on such property, if such exclusion is previously requested in writing by the owner or occupant thereof and approved in writing by the District government in advance of the billing period involved.".

Effective date.
Termination date.

(e) The amendments made by this section shall take effect January 1, 1990, and shall terminate December 31, 1990.

Sec. 134. (a) The paragraph under the heading "Lottery and Charitable Games Enterprise Fund" in the District of Columbia Appropriation Act, 1982, approved December 4, 1981 (95 Stat. 1174; Public Law 97-91), is amended—

(1) by striking the 10th proviso; and

(2) in the 11th proviso, by striking "1144, as well as in the Old Georgetown Historic District:" and inserting "1144:".

(b) The 11th proviso referred to in subsection (a)(2), as amended by such subsection, shall not apply with respect to any activity relating to a lottery, raffle, bingo, or other game of chance sponsored by, and conducted solely for the benefit of, an organization which is described in section 501(c)(3), and exempt from tax under section 501(a), of the Internal Revenue Code of 1986.

SEC. 135. No funds appropriated in this Act for the operation of programs, projects, or activities of the government of the District of Columbia for which the Council of the District of Columbia has approved a specific budget increase shall be reprogrammed or reduced prior to 30 days written notice to the Council of the District of Columbia.

Wages.

SEC. 136. Such sums as may be necessary for fiscal year 1990 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 137. For the fiscal year ending September 30, 1990, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 138. Section 11-903, District of Columbia Code, is amended to read as follows:

Courts, U.S.

"§ 11-903. Composition

"Subject to the enactment of authorizing legislation, the Superior Court of the District of Columbia shall consist of a chief judge and fifty-eight associate judges.".

SEC. 139. Of the funds appropriated in Public Law 100-202 for carrying out part B of title VII of the Higher Education Act that remain available for obligation, $6,700,000 shall be awarded without regard to section 701(B), section 721(B), and section 721(C) of said Act to the consortium of institutions of higher education in the Washington, DC metropolitan area for the purpose of constructing and equipping an academic research library to link the library and information resources of the universities participating in the consortium.

SEC. 140. TASK FORCE ON SUBSTANCE ABUSING PREGNANT WOMEN AND INFANTS EXPOSED TO MATERNAL SUBSTANCE ABUSE DURING PREGNANCY.—(a) IN GENERAL.—The Director of the Department of Human Services of the District of Columbia (referred to as the "Director") shall establish a task force, to be known as the District of Columbia Task Force for Coordinated Service to Drug-Exposed Infants (referred to as the "Task Force"), to develop a plan for the most efficient and effective delivery of services to substance abusing pregnant women and infants who were exposed to maternal substance abuse during pregnancy, including recommendations to ensure maximum cooperation between service providers.

(b) MEMBERS.—(1) The Director shall appoint no more than 15 persons to serve on the Task Force, including persons with experience in treating substance-exposed infants, representing the following organizations and disciplines:

(A) Child protection and welfare.

(B) Local hospitals.

(C) Health care professionals, including drug treatment specialists, public health experts, primary care providers, and child development specialists.

(D) Public safety and justice.

(E) Public education.

(F) Community-based organizations serving substance abusing pregnant and post partum women and their infants.

(G) Public housing officials.

(H) Other human support services.

(2) In addition to the members of the Task Force appointed pursuant to paragraph (1), the United States Attorney or a designee of the United States Attorney shall be a member of the Task Force.

(3) The Director or the designee of the Director shall act as chairman of the Task Force and provide such clerical support as the Task Force requires.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act the Task Force shall submit a report to Congress making findings and recommendations for legislative or other action, and including a specific plan detailing how the District will provide for the care of abandoned or otherwise abused infants for whom foster homes have not been found within 6 months of birth; and a timetable for implementing its recommendations.

(d) TERMINATION.—The Task Force shall terminate on submission of its report in accordance with subsection (c).

Nation's Capital Religious Liberty and Academic Freedom Act.
Schools and colleges.
Homosexuality.

SEC. 141. (a) This section may be cited as the "Nation's Capital Religious Liberty and Academic Freedom Act".

(b) Section 1-2520 of the District of Columbia Code (1981 edition) is amended by adding after subsection (2) the following new subsection:

"(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition—

"(A) the use of any fund, service, facility, or benefit; or

"(B) the granting of any endorsement, approval, or recognition,

to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.".

This Act may be cited as the "District of Columbia Appropriations Act, 1990".

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.R. 3746:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 20, considered and passed House and Senate.

○

Public Law 101-169
101st Congress

Joint Resolution

To designate the period commencing on November 20, 1989, and ending on November 26, 1989, as "National Adoption Week".

Nov. 21, 1989
[H.J. Res. 278]

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 11 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's basic right;

Whereas approximately fifty thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental, and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would ensure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 20, 1989, and ending on November 26, 1989, is designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.J. Res. 278 (S.J. Res. 187):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 24, considered and passed House.
Oct. 27, S.J. Res. 187 considered and passed Senate.
Nov. 13, H.J. Res. 278 considered and passed Senate.

○

Public Law 101-170
101st Congress

Joint Resolution

Designating November 19-25, 1989, as "National Family Caregivers Week".

Nov. 21, 1989
[H.J. Res. 282]

Whereas the number of Americans who are age 65 or older is growing;

Whereas there has been an unprecedented increase in the number of persons who are age 85 or older;

Whereas the incidence of frailty and disability increases among persons of advanced age;

Whereas approximately 5.2 million older persons have disabilities that leave them in need of help with their daily tasks, including food preparation, dressing, and bathing;

Whereas families provide older persons help with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas families who give care to older persons face many additional expenses, including the costs of home modifications, equipment rental, and additional heating;

Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas the role of the aged spouse as a principal caregiver has generally been understated;

Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities;

Whereas family caregivers need information about available community resources;

Whereas family caregivers need respite from the strains of their caregiving roles;

Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 19-25, 1989, is designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 21, 1989.

LEGISLATIVE HISTORY—H.J. Res. 282 (S.J. Res. 140):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 16, considered and passed House and Senate.

○

Public Law 101-171
101st Congress

An Act

Granting the consent of the Congress to amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact.

Nov. 22, 1989
[H.R. 2642]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Southeast Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1989.
42 USC 2021d note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southeast Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1989".

42 USC 2021d note.

SEC. 2. CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

Congress consents to the amendments to the Southeast Interstate Low-Level Radioactive Waste Management Compact made by party states to such Compact. Such amendments are substantially as follows:

At the end of article 5 add the following new section:

"E. No party state shall be required to operate a regional facility for longer than a 20-year period, or to dispose of more than 32,000,000 cubic feet of low-level radioactive waste, whichever first occurs.".

Article 7 is amended by striking out sections G and H and inserting in lieu thereof the following:

"G. Subject to the provisions of Article 7 Section H., any party state may withdraw from the compact by enacting a law repealing the compact, provided that if a regional facility is located within such state, such regional facility shall remain available to the region for four years after the date the Commission receives verification in writing from the Governor of such party state of the rescission of the Compact. The Commission, upon receipt of the verification, shall as soon as practicable provide copies of such verification to the Governor, the Presidents of the Senates, and the Speakers of the Houses of Representatives of the party states as well as the chairmen of the appropriate committees of the Congress.

South Carolina.

"H. The right of a party state to withdraw pursuant to section G. shall terminate thirty days following the commencement of operation of the second host state disposal facility. Thereafter a party state may withdraw only with the unanimous approval of the Commission and with the consent of Congress. For purposes of this section, the low-level radioactive waste disposal facility located in Barnwell County, South Carolina shall be considered the first host state disposal facility.

"I. This compact may be terminated only by the affirmative action of the Congress or by rescission of all laws enacting the compact in each party state.".

Approved November 22, 1989.

LEGISLATIVE HISTORY—H.R. 2642 (S. 1563):

HOUSE REPORTS: No. 101-238, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 135 (1989):
- Oct. 30, considered and passed House.
- Nov. 3, S. 1563 considered and passed Senate.
- Nov. 9, H.R. 2642 considered and passed Senate.

○

Public Law 101-172
101st Congress

An Act

To authorize the transfer of a specified naval landing ship dock to the Government of Brazil under the leasing authority of chapter 6 of the Arms Export Control Act.

Nov. 22, 1989
[H.R. 3544]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE.

(a) IN GENERAL.—The Secretary of the Navy is authorized to lease the naval landing ship dock Hermitage (LSD 34) to the Government of Brazil. A lease under this Act may be renewed.

(b) APPLICABLE LAW.—Such leasing shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a; relating to reports to Congress) shall only apply to renewals of the lease.

SEC. 2. COSTS OF LEASING.

Any expense of the United States in connection with the lease authorized by section 1 shall be charged to the Government of Brazil.

SEC. 3. CONSIDERATION FOR LEASE.

Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of the ship described in section 1(a) may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Government of Brazil.

SEC. 4. EXPIRATION OF AUTHORITY.

The authority granted by section 1(a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease authorized by that section is entered into during that period.

Approved November 22, 1989.

LEGISLATIVE HISTORY—H.R. 3544:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 6, considered and passed House.
Nov. 13, considered and passed Senate.

○

Public Law 101-173
101st Congress

An Act

Nov. 27, 1989
[H.R. 215]

To amend title 5, United States Code, with respect to the method by which premium pay is determined for irregular, unscheduled overtime duty performed by a Federal employee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5545(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require the employee to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is an appropriate percentage, not less than 10 percent nor more than 25 percent, of the rate of basic pay for the position, as determined by taking into consideration the frequency and duration of irregular, unscheduled overtime duty required in the position.".

Effective date.
5 USC 5545 note.

(b) The amendment made by subsection (a) shall apply with respect to overtime duty performed on or after the first day of the first applicable pay period beginning after September 30, 1990.

Approved November 27, 1989.

LEGISLATIVE HISTORY—H.R. 215:

HOUSE REPORTS: No. 101-325, Pt. 1 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 13, considered and passed House and Senate.

○

39-139 O - 89 (173)

Public Law 101-174
101st Congress

Joint Resolution

Designating November 16, 1989, as "Interstitial Cystitis Awareness Day".

Nov. 27, 1989
[H.J. Res. 291]

Whereas approximately 500,000 people in the United States suffer from interstitial cystitis, which is an inflammation of the bladder wall;

Whereas 90 percent of the victims of interstitial cystitis are women;

Whereas a symptom of interstitial cystitis is an urgent need to urinate (up to 60 times a day in severe cases);

Whereas interstitial cystitis is associated with intermittent or chronic pain due to the inflammation of the bladder wall;

Whereas sometimes the pain resulting from interstitial cystitis is so great it causes victims to take their own lives, though interstitial cystitis itself is not fatal;

Whereas the estimated economic impact in 1988 of interstitial cystitis was $1,700,000,000 in medical costs and lost productivity and wages;

Whereas prior to 1988, interstitial cystitis was an "orphan" disease and ignored by Federal funding for research; and

Whereas the Federal Government should substantially increase the funding of research of interstitial cystitis so that its funding is the same as other urological diseases: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1989, is designated as "Interstitial Cystitis Awareness Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day by increasing their awareness of interstitial cystitis and participating in other appropriate activities.

Approved November 27, 1989.

LEGISLATIVE HISTORY—H.J. Res. 291:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 16, considered and passed House.
Nov. 17, considered and passed Senate.

○

Public Law 101-175
101st Congress

An Act

Nov. 27, 1989
[S. 931]

To protect a segment of the Genesee River in New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Genesee River Protection Act of 1989.
Conservation.
Historic preservation.
16 USC 1276 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Genesee River Protection Act of 1989".

16 USC 1276 note.

SEC. 2. PROTECTION OF THE GENESEE RIVER.

In order to protect for present and future generations the outstanding scenic, natural, recreational, scientific, cultural, and ecological values of the Genesee River within Letchworth Gorge State Park in the State of New York, and to assist in the protection and enhancement of the Gorge's archeological sites of sacred significance to the Seneca Nation, historic areas, endangered plant communities, and diverse recreation uses, the protections afforded for rivers listed in section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) for study for potential addition to the National Wild and Scenic Rivers System shall apply to the segment of the Genesee River beginning at the southern boundary of Letchworth Gorge State Park and extending downstream to the Mt. Morris Dam, except that the protection so afforded shall not interfere with the Secretary of the Army's operation and management of Mt. Morris Dam as authorized for purposes of flood control.

Approved November 27, 1989.

LEGISLATIVE HISTORY—S. 931:

HOUSE REPORTS: No. 101-338 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-111 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 12, considered and passed Senate.
Nov. 13, considered and passed House.

O

Public Law 101-176
101st Congress

Joint Resolution

To designate the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as "National Home Care Week".

Nov. 27, 1989
[S.J. Res. 184]

Whereas organized home care services to the elderly and disabled have existed in the United States since the last quarter of the 18th century;

Whereas home care is an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare home care program, which provides coverage for skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home care agencies in the United States providing these services has increased from fewer than 1,275 to more than 12,000; and

Whereas many private and charitable organizations provide these and similar services to millions of individuals each year preventing, postponing, and limiting the need for them to become institutionalized to receive these services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods commencing on November 26, 1989, and ending on December 2, 1989, and commencing on November 25, 1990, and ending on December 1, 1990, as "National Home Care Week" are designated as "National Home Care Week", and the President is authorized and requested to issue proclamations calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.

Approved November 27, 1989.

LEGISLATIVE HISTORY—S.J. Res. 184:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 20, considered and passed Senate.
Nov. 16, considered and passed House.

○

Public Law 101-177
101st Congress

An Act

Nov. 28, 1989
[H.R. 1310]

To redesignate a certain portion of the George Washington Memorial Parkway as the "Clara Barton Parkway".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maryland.
District of Columbia.

SECTION 1. REDESIGNATION OF PARKWAY.

The portion of the George Washington Memorial Parkway extending from the intersection of such Parkway and MacArthur Boulevard in Montgomery County, Maryland, to the intersection of such Parkway and Canal Road in the District of Columbia is hereby redesignated as the "Clara Barton Parkway".

SEC. 2. REFERENCES.

Any reference in a law, rule, map, document, record, or other paper of the United States to the George Washington Memorial Parkway that includes the portion of such Parkway redesignated as the "Clara Barton Parkway" shall be deemed to include a reference to the "Clara Barton Parkway".

Approved November 28, 1989.

LEGISLATIVE HISTORY—H.R. 1310:

HOUSE REPORTS: No. 101-285 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-202 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 16, considered and passed House.
Nov. 15, considered and passed Senate.

○

39-139 0 - 89 (177)

Public Law 101-178
101st Congress

An Act

To amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of the Act for fiscal years 1990, 1991, 1992, 1993, and 1994.

Nov. 28, 1989
[H.R. 2120]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended—

(1) by striking "and" immediately after "September 30, 1986,"; and

(2) by inserting ", and $1,525,000 for each of the fiscal years 1990, 1991, 1992, 1993, and 1994" immediately before the period at the end thereof.

Approved November 28, 1989.

LEGISLATIVE HISTORY—H.R. 2120:

HOUSE REPORTS: No. 101-175, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 23, considered and passed House.
Nov. 14, considered and passed Senate.

Public Law 101-179
101st Congress

An Act

Nov. 28, 1989
[H.R. 3402]

To promote political democracy and economic pluralism in Poland and Hungary by assisting those nations during a critical period of transition and abetting the development in those nations of private business sectors, labor market reforms, and democratic institutions; to establish, through these steps, the framework for a composite program of support for East European Democracy (SEED).

Support for East European Democracy (SEED) Act of 1989.
22 USC 5401 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Support for East European Democracy (SEED) Act of 1989".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Support for East European Democracy (SEED) Program.

TITLE I—STRUCTURAL ADJUSTMENT

Sec. 101. Multilateral support for structural adjustment in Poland and Hungary.
Sec. 102. Stabilization assistance for Poland.
Sec. 103. Agricultural assistance.
Sec. 104. Debt-for-equity swaps and other special techniques.

TITLE II—PRIVATE SECTOR DEVELOPMENT

Sec. 201. Enterprise Funds for Poland and Hungary.
Sec. 202. Labor market transition in Poland and Hungary.
Sec. 203. Technical training for private sector development in Poland and Hungary.
Sec. 204. Peace Corps programs in Poland and Hungary.
Sec. 205. Use of Polish currency generated by agricultural assistance.
Sec. 206. United States policy of private financial support for Polish and Hungarian credit unions.

TITLE III—TRADE AND INVESTMENT

Sec. 301. Eligibility of Poland for Generalized System of Preferences.
Sec. 302. Overseas Private Investment Corporation programs for Poland and Hungary.
Sec. 303. Export-Import Bank programs for Poland and Hungary.
Sec. 304. Trade Credit Insurance Program for Poland.
Sec. 305. Trade and Development Program activities for Poland and Hungary.
Sec. 306. Bilateral investment treaties with Poland and Hungary.
Sec. 307. Certain Polish bonds not subject to Internal Revenue Code rules relating to below-market loans.

TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

Sec. 401. Educational and cultural exchanges and sister institutions programs with Poland and Hungary.
Sec. 402. Poland-Hungary scholarship partnership.
Sec. 403. Science and technology exchange with Poland and Hungary.

TITLE V—OTHER ASSISTANCE PROGRAMS

Sec. 501. Assistance in support of democratic institutions in Poland and Hungary.
Sec. 502. Environmental initiatives for Poland and Hungary.
Sec. 503. Medical supplies, hospital equipment, and medical training for Poland.

TITLE VI—ADDITIONAL SEED PROGRAM ACTIONS

Sec. 601. Policy coordination of SEED Program.
Sec. 602. SEED Information Center System.
Sec. 603. Encouraging voluntary assistance for Poland and Hungary.
Sec. 604. Economic and commercial officers at United States Embassies and missions in Poland and Hungary.

TITLE VII—REPORTS TO CONGRESS

Sec. 701. Report on initial steps taken by United States and on Poland's requirement for agricultural assistance.
Sec. 702. Report on confidence building measures by Poland and Hungary.
Sec. 703. Report on environmental problems in Poland and Hungary.
Sec. 704. Annual SEED Program report.
Sec. 705. Reports on certain activities.
Sec. 706. Notifications to Congress regarding assistance.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Suspension of SEED assistance.
Sec. 802. Declaration of the Republic of Hungary.
Sec. 803. Administrative expenses of the Agency for International Development.
Sec. 804. Relation of provisions of this Act to certain provisions of appropriations Acts.
Sec. 805. Certain uses of excess foreign currencies.

SEC. 2. SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM. 22 USC 5401.

(a) SEED PROGRAM.—The United States shall implement, beginning in fiscal year 1990, a concerted Program of Support for East European Democracy (which may also be referred to as the "SEED Program"). The SEED Program shall be comprised of diverse undertakings designed to provide cost-effective assistance to those countries of Eastern Europe that have taken substantive steps toward institutionalizing political democracy and economic pluralism.

(b) OBJECTIVES OF SEED ASSISTANCE.—The President should ensure that the assistance provided to East European countries pursuant to this Act is designed—

(1) to contribute to the development of democratic institutions and political pluralism characterized by—

(A) the establishment of fully democratic and representative political systems based on free and fair elections,

(B) effective recognition of fundamental liberties and individual freedoms, including freedom of speech, religion, and association,

(C) termination of all laws and regulations which impede the operation of a free press and the formation of political parties,

(D) creation of an independent judiciary, and

(E) establishment of non-partisan military, security, and police forces;

(2) to promote the development of a free market economic system characterized by—

(A) privatization of economic entities,

(B) establishment of full rights to acquire and hold private property, including land and the benefits of contractual relations,

(C) simplification of regulatory controls regarding the establishment and operation of businesses,

(D) dismantlement of all wage and price controls,

(E) removal of trade restrictions, including on both imports and exports,

(F) liberalization of investment and capital, including the repatriation of profits by foreign investors;

(G) tax policies which provide incentives for economic activity and investment,

(H) establishment of rights to own and operate private banks and other financial service firms, as well as unrestricted access to private sources of credit, and

(I) access to a market for stocks, bonds, and other instruments through which individuals may invest in the private sector; and

(3) not to contribute any substantial benefit—

(A) to Communist or other political parties or organizations which are not committed to respect for the democratic process, or

(B) to the defense or security forces of any member country of the Warsaw Pact.

(c) SEED ACTIONS.—Assistance and other activities under the SEED Program (which may be referred to as "SEED Actions") shall include activities such as the following:

(1) LEADERSHIP IN THE WORLD BANK AND INTERNATIONAL MONETARY FUND.—United States leadership in supporting—

(A) loans by the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group that are designed to modernize industry, agriculture, and infrastructure, and

(B) International Monetary Fund programs designed to stimulate sound economic growth.

(2) CURRENCY STABILIZATION LOANS.—United States leadership in supporting multilateral agreement to provide government-to-government loans for currency stabilization where such loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.

(3) DEBT REDUCTION AND RESCHEDULING.—Participation in multilateral activities aimed at reducing and rescheduling a country's international debt, when reduction and deferral of debt payments can assist the process of political and economic transition.

(4) AGRICULTURAL ASSISTANCE.—Assistance through the grant and concessional sale of food and other agricultural commodities and products when such assistance can ease critical shortages but not inhibit agricultural production and marketing in the recipient country.

(5) ENTERPRISE FUNDS.—Grants to support private, nonprofit "Enterprise Funds", designated by the President pursuant to law and governed by a Board of Directors, which undertake loans, grants, equity investments, feasibility studies, technical assistance, training, and other forms of assistance to private enterprise activities in the Eastern European country for which the Enterprise Fund so is designated.

(6) LABOR MARKET-ORIENTED TECHNICAL ASSISTANCE.—Technical assistance programs directed at promoting labor market reforms and facilitating economic adjustment.

(7) TECHNICAL TRAINING.—Programs to provide technical skills to assist in the development of a market economy.

(8) PEACE CORPS.—Establishment of Peace Corps programs.

(9) SUPPORT FOR INDIGENOUS CREDIT UNIONS.—Support for the establishment of indigenous credit unions.

(10) GENERALIZED SYSTEM OF PREFERENCES.—Eligibility for trade benefits under the Generalized System of Preferences.

(11) MOST FAVORED NATION TRADE STATUS.—The granting of temporary or permanent nondiscriminatory treatment (commonly referred to as "most favored nation status") to the products of an East European country through the application of the criteria and procedures established by section 402 of the Trade Act of 1974 (19 U.S.C. 2432; commonly referred to as the "Jackson-Vanik amendment").

(12) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Programs of the Overseas Private Investment Corporation.

(13) EXPORT-IMPORT BANK PROGRAMS.—Programs of the Export-Import Bank of the United States.

(14) TRADE AND DEVELOPMENT PROGRAM ACTIVITIES.—Trade and Development Program activities under the Foreign Assistance Act of 1961.

(15) INVESTMENT TREATIES.—Negotiation of bilateral investment treaties.

(16) SPECIAL TAX TREATMENT OF BELOW-MARKET LOANS.—Exempting bonds from Internal Revenue Code rules relating to below-market loans.

(17) EXCHANGE ACTIVITIES.—Expanded exchange activities under the Fulbright, International Visitors, and other programs conducted by the United States Information Agency.

(18) CULTURAL CENTERS.—Contributions toward the establishment of reciprocal cultural centers that can facilitate educational and cultural exchange and expanded understanding of Western social democracy.

(19) SISTER INSTITUTIONS.—Establishment of sister institution programs between American and East European schools and universities, towns and cities, and other organizations in such fields as medicine and health care, business management, environmental protection, and agriculture.

(20) SCHOLARSHIPS.—Scholarships to enable students to study in the United States.

(21) SCIENCE AND TECHNOLOGY EXCHANGES.—Grants for the implementation of bilateral agreements providing for cooperation in science and technology exchange.

(22) ASSISTANCE FOR DEMOCRATIC INSTITUTIONS.—Assistance designed to support the development of legal, legislative, electoral, journalistic, and other institutions of free, pluralist societies.

(23) ENVIRONMENTAL ASSISTANCE.—Environmental assistance directed at overcoming crucial deficiencies in air and water quality and other determinants of a healthful society.

(24) MEDICAL ASSISTANCE.—Medical assistance specifically targeted to overcome severe deficiencies in pharmaceuticals and other basic health supplies.

(25) ENCOURAGEMENT FOR PRIVATE INVESTMENT AND VOLUNTARY ASSISTANCE.—Encouraging private investment and voluntary private assistance, using a variety of means including a SEED Information Center System and the provision by the Department of Defense of transportation for private nonfinancial contributions.

TITLE I—STRUCTURAL ADJUSTMENT

Banks and banking.
22 USC 5411.

SEC. 101. MULTILATERAL SUPPORT FOR STRUCTURAL ADJUSTMENT IN POLAND AND HUNGARY.

(a) MULTILATERAL ASSISTANCE FOR POLAND AND HUNGARY.—

(1) IN GENERAL.—To the extent that Poland and Hungary continue to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government shall take the leadership in mobilizing international financial institutions, in particular the International Monetary Fund and the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group, to provide timely and appropriate resources to help Poland and Hungary.

Exports.
Agriculture and agricultural commodities.

(2) WORLD BANK STRUCTURAL ADJUSTMENT LOAN FOR POLAND.—In furtherance of paragraph (1), the Secretary of the Treasury shall direct the United States Executive Director of the International Bank for Reconstruction and Development to urge expeditious approval and disbursement by the Bank of a structural adjustment loan to Poland in an appropriate amount in time to facilitate the implementation of major economic reforms scheduled for early 1990, including the termination of energy, export, and agricultural subsidies and wage indexation.

International organizations.

(b) STABILIZATION ASSISTANCE, DEBT RELIEF, AND AGRICULTURAL ASSISTANCE FOR POLAND.—To the extent that Poland continues to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government shall do the following:

(1) STABILIZATION ASSISTANCE.—The United States Government, in conjunction with other member governments of the Organization of Economic Cooperation and Development (OECD) and international financial institutions (including the International Monetary Fund), shall support the implementation of a plan of the Government of Poland to attack hyperinflation and other structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements in Poland, through the use of mechanisms such as—

(A) the Exchange Stabilization Fund pursuant to section 5302 of title 31, United States Code, and in accordance with established Department of the Treasury policies and procedures; and

(B) the authority provided in section 102(c) of this Act.

(2) DEBT RELIEF.—The United States Government—

(A) shall urge all members of the "Paris Club" of creditor governments and other creditor governments to adopt, and participate in, a generous and early rescheduling program for debts owed by the Government of Poland; and

(B) in coordination with other creditor governments, shall seek to expedite consultations between the Government of Poland and its major private creditors in order to facilitate a rescheduling and reduction of payments due on debt owed to such creditors in a manner consistent with the international debt policy announced by the Secretary of the Treasury on March 10, 1989.

(3) AGRICULTURAL ASSISTANCE.—The United States Government shall provide agricultural assistance for Poland in accordance with section 103.

SEC. 102. STABILIZATION ASSISTANCE FOR POLAND.

22 USC 5412.

(a) IMMEDIATE EMERGENCY ASSISTANCE.—To the extent that the ongoing International Monetary Fund review of the Polish economy projects a probable balance of payments shortage for the fourth quarter of 1989, the United States Government, in carrying out paragraph (1) of section 101(b)—

(1) should work closely with the European Community and international financial institutions to determine the extent of emergency assistance required by Poland for the fourth quarter of 1989, and

(2) should consider extending a bridge loan to relieve immediate and urgent balance of payments requirements using the Exchange Stabilization Fund in accordance with paragraph (1)(A) of section 101(b).

(b) IMMEDIATE, MULTILATERAL RESPONSE TO POLAND'S ECONOMIC STABILIZATION NEEDS.—In furtherance of section 101(b)(1), the President, acting in coordination with the European Community, should seek to ensure that the industrialized democracies undertake an immediate, multilateral effort to respond to Poland's request for $1,000,000,000 to support its economic stabilization program.

(c) ADDITIONAL AUTHORITY TO PROVIDE STABILIZATION ASSISTANCE.—

President of U.S.

(1) AUTHORITY.—In order to carry out paragraph (1) of section 101(b), the President is authorized to furnish assistance for Poland, notwithstanding any other provision of law, to assist in the urgent stabilization of the Polish economy and ultimately to promote longer-term economic growth and stability, based on movement toward free market principles. Such assistance may be provided for balance of payments support (including commodity import programs), support for private sector development, or for other activities to further efforts to develop a free market-oriented economy in Poland.

(2) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing the assistance authorized by this subsection, there are authorized to be appropriated $200,000,000 for fiscal year 1990 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund), in addition to amounts otherwise available for such purposes.

SEC. 103. AGRICULTURAL ASSISTANCE.

22 USC 5413.

(a) AGRICULTURAL ASSISTANCE STRATEGY.—

(1) UNITED STATES ASSISTANCE.—A principal component of the SEED Program shall be the provision by the United States of food and other agricultural commodities and products to alleviate crucial shortages that may be created in an East European country by the transition from state-directed controls to a free market economy.

(2) ASSISTANCE FROM OTHER COUNTRIES.—In order to ensure the necessary quantity and diversity of agricultural assistance for that purpose, the United States shall take all appropriate steps to encourage parallel efforts by the European Community and other agricultural surplus countries.

(3) AVOIDING DISINCENTIVES TO PRIVATE AGRICULTURAL PRODUCTION AND MARKETING.—In participating in such multilateral agricultural assistance, the United States shall seek to strike a balance wherein agricultural commodities and products are supplied in such quantities as will be effective in overcoming severe shortages and dampening inflation but without impeding the development of incentives for private agricultural production and marketing in the recipient country.

(b) AGRICULTURAL ASSISTANCE FOR POLAND.—Pursuant to section 101(b)(3), the United States Government—

(1) shall make available to Poland, in coordination with the European Community, United States agricultural assistance—

Hunger.

(A) to alleviate immediate food shortages (such assistance to be specifically targeted toward elements of the Polish population most vulnerable to hunger and malnutrition, in particular the infirm, the elderly, and children), and

(B) to facilitate the transition from state-directed controls to a free market economy, while avoiding disincentives to domestic agricultural production and reform; and

(2) in order to ensure the necessary quantity and diversity of such agricultural assistance, shall take all appropriate steps to encourage parallel efforts by the European Community and other agricultural surplus countries.

(c) FY 1990 MINIMUM LEVEL OF AGRICULTURAL ASSISTANCE FOR POLAND.—In carrying out subsection (b) of this section, the level of assistance for Poland for fiscal year 1990 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o) should not be less than $125,000,000. Such assistance—

(1) to the maximum extent practicable, shall be provided through nongovernmental organizations; and

(2) shall emphasize feed grains.

(d) CONSISTENCY WITH BUDGET REQUIREMENTS.—Subsection (c) should not be construed to authorize or require any budgetary obligations or outlays that are inconsistent with House Concurrent Resolution 106 of the 101st Congress (setting forth the congressional budget for the United States Government for fiscal year 1990).

22 USC 5414.

SEC. 104. DEBT-FOR-EQUITY SWAPS AND OTHER SPECIAL TECHNIQUES.

President of U.S.

(a) REDUCTION OF DEBT BURDEN.—The President shall take all appropriate actions to explore and encourage innovative approaches to the reduction of the government-to-government and commercial debt burden of East European countries which have taken substantive steps toward political democracy and economic pluralism.

(b) AUTHORITY FOR DISCOUNTED SALES OF DEBT.—Notwithstanding any other provision of law, the President may undertake the discounted sale, to private purchasers, of United States Government debt obligations of an East European country which has taken substantive steps toward political democracy and economic pluralism, subject to subsection (c).

(c) CONDITION.—An obligation may be sold under subsection (b) only if the sale will facilitate so-called debt-for-equity or debt-for-development swaps wherein such newly privatized debt is exchanged by the new holder of the obligation for—

(1) local currencies, policy commitments, or other assets needed for development or other economic activities, or

(2) for an equity interest in an enterprise theretofore owned by the particular East European government.

TITLE II—PRIVATE SECTOR DEVELOPMENT

SEC. 201. ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

Agriculture and agricultural commodities.
Loans.
Insurance.
22 USC 5421.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small businesses, the agricultural sector, and joint ventures with United States and host country participants, and

(2) policies and practices conducive to private sector development in Poland and Hungary,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President—

(1) $240,000,000 to support the Polish-American Enterprise Fund; and

(2) $60,000,000 to support the Hungarian-American Enterprise Fund.

Such amounts are authorized to be made available until expended.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

President of U.S.

(1) DESIGNATION.—The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this Act, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (hereinafter in this section referred to as the "Enterprise Funds").

President of U.S.

(2) CONSULTATION WITH CONGRESS.—The President shall consult with the leadership of each House of Congress before designating an organization pursuant to paragraph (1).

(3) BOARD OF DIRECTORS.—(A) Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(B) A majority of the members of the Board of Directors of each Enterprise Fund shall be United States citizens.

(C) A host country citizen who is not committed to respect for democracy and a free market economy may not serve as a member of the Board of Directors of an Enterprise Fund.

(4) ELIGIBILITY OF ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5, United States Code.

President of U.S.

(e) GRANTS TO ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the Agency for International Development to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) ELIGIBLE PROGRAMS AND PROJECTS.—

(1) IN GENERAL.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(2) EMPLOYEE STOCK OWNERSHIP PLANS.—Funds available to the Enterprise Funds may be used to encourage the establishment of Employee Stock Ownership Plans (ESOPs) in Poland and Hungary.

(3) INDIGENOUS CREDIT UNIONS.—Funds available to the Enterprise Funds may be used for technical and other assistance to support the development of indigenous credit unions in Poland and Hungary. As used in this paragraph, the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution.

(4) TELECOMMUNICATIONS MODERNIZATION IN POLAND.—The Polish-American Enterprise Fund may use up to $25,000,000 for grants for projects providing for the early introduction in Poland of modern telephone systems and telecommunications technology, which are crucial in establishing the conditions for successful transition to political democracy and economic pluralism.

(5) ECONOMIC FOUNDATION OF NSZZ SOLIDARNOŚĆ.—Funds available to the Polish-American Enterprise Fund may be used to support the Economic Foundation of NSZZ Solidarność.

(g) MATTERS TO BE CONSIDERED BY ENTERPRISE FUNDS.—In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(h) RETENTION OF INTEREST.—An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(i) USE OF UNITED STATES PRIVATE VENTURE CAPITAL.—In order to maximize the effectiveness of the activities of the Enterprise Funds, each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to this section, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out this section. Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

(j) FINANCIAL INSTRUMENTS FOR INDIVIDUAL INVESTMENT IN POLAND.—In order to maximize the effectiveness of the activities of the Polish-American Enterprise Fund, that Enterprise Fund should undertake all possible efforts to establish financial instruments that will enable individuals to invest in the private sectors of Poland and that will thereby have the effect of multiplying the impact of United States grants to that Enterprise Fund.

(k) NONAPPLICABILITY OF OTHER LAWS.—Executive branch agencies may conduct programs and activities and provide services in support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(l) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—No part of the funds of either Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services.

(m) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section. Reports.

(n) GAO AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(o) RECORDKEEPING REQUIREMENTS.—The Enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(p) ANNUAL REPORTS.—Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1991.

22 USC 5422.

SEC. 202. LABOR MARKET TRANSITION IN POLAND AND HUNGARY.

(a) TECHNICAL ASSISTANCE.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary"), in consultation with representatives of labor and business in the United States, shall—

(1) provide technical assistance to Poland and Hungary for the implementation of labor market reforms; and

(2) provide technical assistance to Poland and Hungary to facilitate adjustment during the period of economic transition and reform.

(b) TYPES OF TECHNICAL ASSISTANCE AUTHORIZED.—In carrying out subsection (a), the Secretary is authorized to provide technical assistance regarding policies and programs for training and retraining, job search and employment services, unemployment insurance, occupational safety and health protection, labor-management relations, labor statistics, analysis of productivity constraints, entrepreneurial support for small businesses, market-driven systems of wage and income determinations, job creation, employment security, the observance of internationally recognized worker rights (including freedom of association and the right to organize and bargain collectively), and other matters that the Secretary may deem appropriate regarding free labor markets and labor organizations.

(c) ADMINISTRATIVE AUTHORITIES.—In carrying out subsection (a), the Secretary is authorized to do the following:

Gifts and property.
Real property.

(1) Solicit and accept in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this section, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Gifts and donations of property which are no longer required for the discharge of the purposes of this section shall be reported to the Administrator of General Services for transfer, donation, or other disposal in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 and following).

Voluntarism.

(2) Solicit and accept voluntary and uncompensated services notwithstanding section 1342 of title 31, United States Code. A volunteer under this paragraph shall not be deemed to be an employee of the United States except for the purposes of—

(A) the tort claims provisions of title 28, United States Code, and

(B) subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

International agreements.

(3) Enter into arrangements or agreements with appropriate departments, agencies, and establishments of Poland and Hungary.

(4) Enter into arrangements or agreements with appropriate private and public sector United States parties, and international organizations.

Contracts.
International organizations.

(d) CONSULTATION WITH APPROPRIATE OFFICERS.—In carrying out the responsibilities established by this section, the Secretary shall seek information and advice from, and consult with, appropriate officers of the United States.

(e) CONSULTATION WITH LABOR AND BUSINESS REPRESENTATIVES.—For purposes of this section, consultation between the Secretary and United States labor and business representatives shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) DELEGATION OF RESPONSIBILITIES.—The Secretary shall delegate the authority to carry out the programs authorized by this section to the head of the Bureau of International Labor Affairs of the Department of Labor.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Labor for the 3-year period beginning October 1, 1989, to carry out this section—

(1) $4,000,000 for technical assistance to Poland; and

(2) $1,000,000 for technical assistance to Hungary.

SEC. 203. TECHNICAL TRAINING FOR PRIVATE SECTOR DEVELOPMENT IN POLAND AND HUNGARY.

Agriculture and agricultural commodities.
22 USC 5423.

(a) TECHNICAL TRAINING PROGRAM.—The Agency for International Development shall develop and implement a program for extending basic agribusiness, commercial, entrepreneurial, financial, scientific, and technical skills to the people of Poland and Hungary to enable them to better meet their needs and develop a market economy. This program shall include management training and agricultural extension activities.

(b) PARTICIPATION BY ENTERPRISE FUNDS AND OTHER AGENCIES AND ORGANIZATIONS.—In carrying out subsection (a), the Agency for International Development may utilize the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and other appropriate Government and private agencies, programs, and organizations such as—

(1) the Department of Agriculture;

(2) the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736(a) (1) and (2));

(3) the International Executive Service Corps;

(4) the Foundation for the Development of Polish Agriculture;

(5) the World Council of Credit Unions; and

(6) other United States, Polish, and Hungarian private and voluntary organizations and private sector entities.

(c) NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.—Assistance provided pursuant to subsection (a) under the authorities of part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of implementing this section, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance), in addition to amounts otherwise available for such purposes.

(e) LIMITATION WITH RESPECT TO FARMER-TO-FARMER PROGRAM.—Any activities carried out pursuant to this Act through the Farmer-to-Farmer Program under section 406(a) (1) and (2) of the Agricultural Trade Development and Assistance Act of 1954 shall be funded with funds authorized to be appropriated by this Act and local currencies made available under section 205, and shall not be funded with funds made available pursuant to section 1107 of the Food Security Act of 1985 (7 U.S.C. 1736 note) or a similar, subsequent provision of law.

22 USC 5424.

SEC. 204. PEACE CORPS PROGRAMS IN POLAND AND HUNGARY.

Appropriation authorization.

There are authorized to be appropriated to carry out programs in Poland and Hungary under the Peace Corps Act, $6,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes. Such programs shall include the use of Peace Corps volunteers—

(1) to provide English language training, and

(2) to extend the technical skills described in section 203(a) to the people of Poland and Hungary, using the Associate Volunteer Program to the extent practicable.

22 USC 5425.

SEC. 205. USE OF POLISH CURRENCY GENERATED BY AGRICULTURAL ASSISTANCE.

(a) Additional Assistance For Poland.—A portion of the agricultural commodities described in subsection (c) may be made available and sold or bartered in Poland to generate local currencies to be used—

(1) to complement the assistance for Poland authorized by sections 103(b), 201, and 203 of this Act, and

(2) to support the activities of the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note),

notwithstanding section 416(b)(7) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)) or any other provision of law.

(b) Emphasis on Agricultural Development.—The uses of local currencies generated under this section should emphasize the development of agricultural infrastructure, agriculture-related training, and other aspects of agricultural development in Poland.

(c) Commodities Subject to Requirements.—Subsection (a) applies with respect to agricultural commodities made available for Poland for fiscal years 1990, 1991, and 1992 under section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 and following), and the Food for Progress Act of 1985 (7 U.S.C. 1736o).

(d) Other Uses Not Precluded.—The uses of agricultural commodities and local currencies specified in subsection (a) are in addition to other uses authorized by law.

Banks and banking.
22 USC 5426.

SEC. 206. UNITED STATES POLICY OF PRIVATE FINANCIAL SUPPORT FOR POLISH AND HUNGARIAN CREDIT UNIONS.

(a) In General.—In order to facilitate the development of indigenous credit unions in Poland and Hungary, it is the policy of the United States that—

(1) United States citizens, financial institutions (other than federally insured depository institutions), and other persons may make contributions and loans to, make capital deposits in, and provide other forms of financial and technical assistance to credit unions in Poland and Hungary; and

(2) federally insured depository institutions may provide technical assistance to credit unions in Poland and Hungary, to the extent that the provision of such assistance is prudent and not inconsistent with safe and sound banking practice.

(b) Amendment to Federal Credit Union Act.—Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by redesignating paragraph (16) as paragraph (17) and by inserting after paragraph (15) the following new paragraph:

"(16) subject to such regulations as the Board may prescribe, to provide technical assistance to credit unions in Poland and Hungary; and".

(c) Definitions.—For purposes of subsection (a)—

(1) the term "credit union" means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution's charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution; and

(2) the term "federally insured depository institution" means—

(A) any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(B) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act).

TITLE III—TRADE AND INVESTMENT

SEC. 301. ELIGIBILITY OF POLAND FOR GENERALIZED SYSTEM OF PREFERENCES.

Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Poland" in the table within such subsection.

SEC. 302. OVERSEAS PRIVATE INVESTMENT CORPORATION PROGRAMS FOR POLAND AND HUNGARY.

(a) Eligibility of Poland and Hungary for OPIC Programs.—Section 239(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(f)) is amended by inserting ", Poland, Hungary," after "Yugoslavia".

22 USC 2199 note.

(b) Enhancement of Nongovernmental Sector.—In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland and Hungary which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

22 USC 2199 note.

(c) Avoidance of Duplicative Amendments.—If the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, contains the same amendment that is made by subsection (a) of this section, the amendment made by that Act shall not be effective.

12 USC 635 note.

SEC. 303. EXPORT-IMPORT BANK PROGRAMS FOR POLAND AND HUNGARY.

(a) Authority to Extend Credit to Poland and Hungary.—Notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)), the Export-Import Bank of the United States may guarantee, insure, finance, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by the Republic of Hungary or any agency or national thereof or by the Polish People's Republic or any agency or national thereof.

(b) Private Financial Intermediaries to Facilitate Exports to Poland.—Consistent with the provisions of the Export-Import Bank Act of 1945 (12 U.S.C. 635 and following), the Export-Import Bank of the United States shall work with private financial intermediaries in Poland to facilitate the export of goods and services to Poland.

SEC. 304. TRADE CREDIT INSURANCE PROGRAM FOR POLAND.

(a) Establishment of Program.—Chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 224 (22 U.S.C 2184) the following new section:

22 USC 2185.

"SEC. 225. TRADE CREDIT INSURANCE PROGRAM FOR POLAND.

"(a) General Authority.—

President of U.S.

"(1) Assurance to export-import bank of repayment.—The President is authorized to provide guarantees to the Bank for liabilities described in paragraph (2) in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) that the Bank have reasonable assurance of repayment.

"(2) Liabilities which may be guaranteed.—The liabilities that may be guaranteed under paragraph (1) are liabilities incurred by the Bank in connection with guarantees or insurance provided under the Export-Import Bank Act of 1945 for financing for transactions involving the export of goods and services for the use of the private sector in Poland.

"(b) Guarantees Available Only for Short-Term Guarantees and Insurance.—Guarantees provided under subsection (a) shall be for short-term guarantees and insurance extended by the Bank which shall be repayable within a period not to exceed one year from the date of arrival at the port of importation of the goods and services covered by such guarantees or insurance.

"(c) Agreement on Criteria and Procedures.—Guarantees or insurance extended by the Bank and guaranteed pursuant to subsection (a) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Administrator and the Bank.

"(d) Reserve Fund.—The agreement referred to in subsection [illegible]) shall also provide for the establishment of a reserve fund by the administering agency, with such funds made available to the reserve as the Administrator deems necessary to discharge liabilities under guarantees provided under subsection (a).

"(e) Discharge of Liabilities.—

"(1) Funds which may be used.—Such amounts of the funds made available to carry out chapter 4 of part II of this Act (relating to the economic support fund) as the President determines are necessary may be made available to discharge liabilities under guarantees entered into under subsection (a).

Claims.

"(2) Crediting of subsequent payments.—To the extent that any of the funds made available pursuant to paragraph (1) are paid out for a claim arising out of liabilities guaranteed under subsection (a), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund established pursuant to subsection (d), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Administrator to the Bank for guarantees under subsection (a).

"(f) APPROPRIATIONS ACTION REQUIRED.—Commitments to guarantee under subsection (a) are authorized only to the extent and in the amounts provided in advance in appropriations Acts.

"(g) LIMITATION ON OUTSTANDING COMMITMENTS.—The aggregate amount of outstanding commitments under subsection (a) may not exceed $200,000,000 of contingent liability for loan principal during any fiscal year.

"(h) BIANNUAL REPORTS TO CONGRESS.—Every 6 months, the Administrator and the President of the Bank shall prepare and transmit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report on the amount and extension of guarantees and insurance provided by the Bank and guaranteed under this section during the preceding 6-month period.

Banks and banking.

"(i) ADMINISTRATIVE AND TECHNICAL ASSISTANCE.—The Bank shall provide, without reimbursement, such administrative and technical assistance to the administering agency as the Bank and the Administrator determine appropriate to assist the administering agency in carrying out this section.

Banks and banking.

"(j) FEES AND PREMIUMS.—The Bank is authorized to charge fees and premiums, in connection with guarantees or insurance guaranteed by the administering agency under subsection (a), that are commensurate (in the judgment of the Bank) with the Bank's administrative costs and the risks covered by the agency's guarantees. Any amounts received by the Bank in excess of the estimated costs incurred by the Bank in administering such guarantees or insurance—

"(1) shall be credited to the reserve fund established pursuant to subsection (d),

"(2) shall be merged with the funds in such reserve, and

"(3) shall be available for the purpose of payments by the administering agency to the Bank for guarantees under subsection (a).

"(k) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland shall not apply with respect to the funds made available to carry out this section.

"(l) EXPIRATION OF AUTHORITY.—The President may not enter into any commitments to guarantee under subsection (a) after September 30, 1992.

"(m) DEFINITIONS.—For purposes of this section—

"(1) the term 'administering agency' means the Agency for International Development;

"(2) the term 'Administrator' means the Administrator of the Agency for International Development; and

"(3) the term 'Bank' means the Export-Import Bank of the United States.".

22 USC 2184.

(b) CONFORMING AMENDMENT.—Section 224 of that Act is amended by inserting "FOR CENTRAL AMERICA" after "PROGRAM" in the section caption.

22 USC 2185 note.

(c) Conforming Reference.—With respect to Poland, any reference in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, to section 224 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to section 225 of that Act (as enacted by this section).

22 USC 2421 note.

SEC. 305. TRADE AND DEVELOPMENT PROGRAM ACTIVITIES FOR POLAND AND HUNGARY.

Appropriation authorization.

In order to permit expansion of the Trade and Development Program into Poland and Hungary, there are authorized to be appropriated $6,000,000 for the 3-year period beginning October 1, 1989, to carry out section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2241), in addition to amounts otherwise available for such purpose.

SEC. 306. BILATERAL INVESTMENT TREATIES WITH POLAND AND HUNGARY.

The Congress urges the President to seek bilateral investment treaties with Poland and Hungary in order to establish a more stable legal framework for United States investment in those countries.

Taxes.

SEC. 307. CERTAIN POLISH BONDS NOT SUBJECT TO INTERNAL REVENUE CODE RULES RELATING TO BELOW-MARKET LOANS.

26 USC 7872 note.

(a) In General.—Paragraph (5) of section 1812(b) of the Tax Reform Act of 1986 is amended—

(1) by inserting "or Poland" after "Israel" in the text thereof, and

(2) by inserting "or polish" after "israel" in the heading thereof.

26 USC 7872 note.

(b) Effective Date.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE IV—EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES

22 USC 5441.

SEC. 401. EDUCATIONAL AND CULTURAL EXCHANGES AND SISTER INSTITUTIONS PROGRAMS WITH POLAND AND HUNGARY.

(a) Educational and Cultural Exchanges.—

(1) Support for expanded u.s. participation.—The United States should expand its participation in educational and cultural exchange activities with Poland and Hungary, using the full array of existing government-funded and privately-funded programs, with particular emphasis on the J. William Fulbright Educational Exchange Program, the International Visitors Program, the Samantha Smith Memorial Exchange Program, the exchange programs of the National Academy of Sciences, youth and student exchanges through such private organizations as The Experiment in International Living, The American Field Service Committee, and Youth for Understanding, and research exchanges sponsored by the International Research and Exchanges Board (IREX).

(2) Emphasis on skills in business and economics.—The United States should place particular emphasis on expanding its participation in educational exchange activities that will assist in developing the skills in business and economics that

are necessary for the development of a free market economy in Poland and Hungary.

(b) Binational Fulbright Commissions.—The United States should take all appropriate action to establish binational Fulbright commissions with Poland and Hungary in order to facilitate and enhance academic and scholarly exchanges with those countries.

(c) Reciprocal Cultural Centers.—The President should consider the establishment of reciprocal cultural centers in Poland and the United States and in Hungary and the United States to facilitate government-funded and privately-funded cultural exchanges.

President of U.S.

(d) Sister Institutions Programs.—The President shall act to encourage the establishment of "sister institution" programs between American and Polish organizations and between American and Hungarian organizations, including such organizations as institutions of higher education, cities and towns, and organizations in such fields as medicine and health care, business management, environmental protection, and agricultural research and marketing.

(e) Authorization of Appropriations.—To enable the United States Information Agency to support the activities described in this section, there are authorized to be appropriated $12,000,000 for the 3-year period beginning October 1, 1989, in addition to amounts otherwise available for such purposes.

State and local governments.
Schools and colleges.
22 USC 5442.

SEC. 402. POLAND-HUNGARY SCHOLARSHIP PARTNERSHIP.

(a) Establishment of Scholarship Program.—The Administrator of the Agency for International Development is authorized to establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable students from Poland and Hungary to study in the United States.

(b) Emphasis on Business and Economics.—The scholarship program provided for in this section shall emphasize scholarships to enable students from Poland and Hungary to study business and economics in the United States. Such scholarships may be provided for study in programs that range from the standard management courses to more specialized assistance in commercial banking and the creation of a stock market.

(c) Grants to States.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate or graduate degree programs, and training programs of one year or longer, in study areas related to the critical development needs of Poland and Hungary.

(d) Consultation With States.—The Administrator shall consult with the participating States with regard to the educational opportunities available within each State and on the assignment of scholarship recipients.

(e) Federal Share.—The Federal share for each year for which a State receives payments under this section shall not be more than 50 percent.

(f) Non-Federal Share.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) Forgiveness of Scholarship Assistance.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to Poland or Hungary, as the case may be, for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) FUNDING.—Grants to States pursuant to this section shall be made with funds made available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). In addition to amounts otherwise available for such purpose under those chapters, there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, for use in carrying out this section.

Appropriation authorization.

(j) RESTRICTIONS NOT APPLICABLE.—Prohibitions on the use of foreign assistance funds for assistance for Poland and Hungary shall not apply with respect to the funds made available to carry out this section.

(k) DEFINITION OF STATE.—As used in this section, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Appropriation authorizations.
22 USC 5443.

SEC. 403. SCIENCE AND TECHNOLOGY EXCHANGE WITH POLAND AND HUNGARY.

(a) AGREEMENT WITH POLAND.—There are authorized to be appropriated to the Secretary of State for purposes of continuing to implement the 1987 United States-Polish science and technology agreement—

(1) $1,500,000 for fiscal year 1990,
(2) $2,000,000 for fiscal year 1991, and
(3) $2,000,000 for fiscal year 1992.

(b) AGREEMENT WITH HUNGARY.—There are authorized to be appropriated to the Secretary of State for purposes of implementing the 1989 United States-Hungarian science and technology agreement—

(1) $500,000 for fiscal year 1990,
(2) $1,000,000 for fiscal year 1991, and
(3) $1,000,000 for fiscal year 1992.

(c) DEFINITION OF AGREEMENTS BEING FUNDED.—For purposes of this section—

(1) the term "1987 United States-Polish science and technology agreement" refers to the agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto; and

(2) the term "1989 United States-Hungarian science and technology agreement" refers to the agreement concluded in 1989 by the United States and Hungary, entitled "Agreement Between the Government of the United States of America and the Government of the Hungarian People's Republic for Scientific

and Technology Cooperation", together with annexes relating thereto.

TITLE V—OTHER ASSISTANCE PROGRAMS

SEC. 501. ASSISTANCE IN SUPPORT OF DEMOCRATIC INSTITUTIONS IN POLAND AND HUNGARY.

22 USC 5451.

(a) Authorization of Assistance.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $12,000,000 for the 3-year period beginning October 1, 1989, which shall be available only for the support of democratic institutions and activities in Poland and Hungary.

(b) Nonapplicability of Other Laws.—Assistance may be provided under this section notwithstanding any other provision of law.

SEC. 502. ENVIRONMENTAL INITIATIVES FOR POLAND AND HUNGARY.

22 USC 5452.

(a) Priority for the Control of Pollution.—The Congress recognizes the severe pollution problems affecting Poland and Hungary and the serious health problems which ensue from such pollution. The Congress therefore directs that a high priority be given in the implementation of assistance to Poland and Hungary to the control of pollution and the restoration of the natural resource base on which a sustainable, healthy economy depends.

(b) EPA Activities Generally.—In addition to specific authorities contained in any of the environmental statutes administered by the Environmental Protection Agency, the Administrator of that Agency (hereinafter in this section referred to as the "Administrator") is authorized to undertake such educational, policy training, research, and technical and financial assistance, monitoring, coordinating, and other activities as the Administrator may deem appropriate, either alone or in cooperation with other United States or foreign agencies, governments, or public or private institutions, in protecting the environment in Poland and Hungary.

(c) EPA Activities in Poland.—The Administrator shall cooperate with Polish officials and experts to—

(1) establish an air quality monitoring network in the Krakow metropolitan area as a part of Poland's national air monitoring network; and

(2) improve both water quality and the availability of drinking water in the Krakow metropolitan area.

Water.

(d) EPA Activities in Hungary.—The Administrator shall work with other United States and Hungarian officials and private parties to establish and support a regional center in Budapest for facilitating cooperative environmental activities between governmental experts and public and private organizations from the United States and Eastern and Western Europe.

Appropriation authorization.

(e) Funding of EPA Activities.—To enable the Environmental Protection Agency to carry out subsections (b), (c), and (d), there are authorized to be appropriated $10,000,000 for the 3-year period beginning October 1, 1989, to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of Part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund). These funds may be used to carry out those subsections notwithstanding any provision of law relating to the use of foreign assistance funds.

(f) Department of Energy Activities Relating to Fossil Fuels.—

(1) Clean coal.—The Secretary of Energy shall cooperate with Polish officials and experts to retrofit a coal-fired commercial powerplant in the Krakow, Poland, region with advanced clean coal technology that has been successfully demonstrated at a comparably scaled powerplant in the United States. Such retrofit shall be carried out by one or more United States companies using United States technology and equipment manufactured in the United States. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(2) Equipment assessment.—The Secretary of Energy shall cooperate with Polish officials and experts and companies within the United States to assess and develop the capability within Poland to manufacture or modify boilers, furnaces, smelters, or other equipment that will enable industrial facilities within Poland to use fossil fuels cleanly. The Secretary may vest title in any property acquired under this paragraph in an entity other than the United States.

(3) Authorization of appropriations.—To carry out paragraphs (1) and (2) of this subsection, there are authorized to be appropriated $30,000,000 for the 3-year period beginning October 1, 1989. Not more than $10,000,000 of the funds appropriated under this paragraph may be used to carry out the requirements of paragraph (1).

Conservation.

(g) Priority for Efficient Energy Use.—In view of the high energy usage per unit of output in Hungary and Poland, the Secretary of Energy shall give high priority to assisting officials of Poland and Hungary in improving the efficiency of their energy use, through emphasis on such measures as efficient motors, lights, gears, and appliances and improvements in building insulation and design.

(h) Alternative Investments in Energy in Hungary.—It is the sense of the Congress that the Executive branch should work with the Government of Hungary to achieve environmentally safe alternative investments in energy efficiency, particularly with regard to projects along the Danube River.

22 USC 5453.

SEC. 503. MEDICAL SUPPLIES, HOSPITAL EQUIPMENT, AND MEDICAL TRAINING FOR POLAND.

(a) Authorization of Assistance.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) $4,000,000 for the 3-year period beginning October 1, 1989, which shall be available only—

(1) for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment, and

(2) for training of Polish medical personnel.

Abortion.

(b) Nonapplicability of Other Laws.—Assistance may be provided under this section notwithstanding any other provision of law, other than—

(1) section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f); relating to the prohibition on the use of funds for abortions and involuntary sterilizations), and

(2) any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that relates to abortion.

TITLE VI—ADDITIONAL SEED PROGRAM ACTIONS

SEC. 601. POLICY COORDINATION OF SEED PROGRAM.

President of U.S.
22 USC 5461.

The President shall designate, within the Department of State, a SEED Program coordinator who shall be directly responsible for overseeing and coordinating all programs described in this Act and all other activities that the United States Government conducts in furtherance of the purposes of this Act.

SEC. 602. SEED INFORMATION CENTER SYSTEM.

22 USC 5462.
President of U.S.

(a) Establishment.—The President shall establish a SEED Information Center System, using existing Executive branch agencies and acting in cooperation with the Government of Poland and the Government of Hungary.

(b) Functions.—

(1) In general.—The SEED Information Center System shall serve as a central clearinghouse mechanism for information relating to—

(A) business needs and opportunities in Eastern Europe, and

(B) voluntary assistance to countries in Eastern Europe.

(2) Private enterprise development.—The SEED Information Center System shall be organized, among other purposes, to encourage—

(A) the submission of economically sound proposals to the Polish-American Enterprise Fund and Hungarian-American Enterprise Fund, and

(B) other sources of finance for the development of private enterprise in Eastern Europe.

District of Columbia.

(c) Location.—The SEED Information Center System shall be based jointly in Washington, District of Columbia; Warsaw, Poland; and Budapest, Hungary; and should it become appropriate, the capitals of other East European countries.

SEC. 603. ENCOURAGING VOLUNTARY ASSISTANCE FOR POLAND AND HUNGARY.

22 USC 5463.

Romania.

(a) Encouraging Private Contributions.—It is the sense of the Congress that the President should take all possible steps to encourage across the Nation a massive outpouring of private contributions of money and nonperishable foods, to be collected by civic, religious, school, and youth organizations, for assistance to Poland and to refugees from Romania who are in Hungary.

(b) Transportation to Poland of Private Contributions.—In further of subsection (a), the President—

Armed Forces.

(1) using all available authorities, including section 402 of title 10, United States Code (relating to transportation of humanitarian relief supplies), should use resources of the Department of Defense (including the National Guard) to transport nonfinancial private contributions to Poland,

(2) should request additional authorities as needed for the use of those resources for that purpose; and

(3) should encourage maximum participation by such recognized private and voluntary organizations as the Polish-American Congress in the transportation of nonfinancial private contributions to Poland.

22 USC 5464.

SEC. 604. ECONOMIC AND COMMERCIAL OFFICERS AT UNITED STATES EMBASSIES AND MISSIONS IN POLAND AND HUNGARY.

It is the sense of the Congress that, to the extent practicable—

(1) the United States Embassy in Budapest, Hungary, should be assigned one additional economic and commercial officer;

(2) the United States Embassy in Warsaw, Poland, should be assigned one additional economic officer and one additional commercial officer;

(3) the United States Trade Center in Warsaw, Poland, should be assigned one additional economic and commercial officer; and

(4) the United States mission in Krakow, Poland, should be assigned one additional economic and commercial officer.

TITLE VII—REPORTS TO CONGRESS

President of U.S.
22 USC 5471.

SEC. 701. REPORT ON INITIAL STEPS TAKEN BY UNITED STATES AND ON POLAND'S REQUIREMENT FOR AGRICULTURAL ASSISTANCE.

(a) INITIAL REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress—

(1) describing the steps taken by the United States Government pursuant to title I, in particular sections 102 (a) and (b);

(2) assessing Poland's requirements for additional agricultural assistance during fiscal year 1990 and its requirements for agricultural assistance during fiscal years 1991 and 1992; and

(3) specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

(b) UPDATING ASSESSMENTS.—As additional information becomes available, the President shall provide to the Congress revised assessments of Poland's requirements for agricultural assistance during fiscal years 1991 and 1992, specifying how much agricultural assistance the President proposes be provided by the United States to meet those requirements.

President of U.S.
22 USC 5472.

SEC. 702. REPORT ON CONFIDENCE BUILDING MEASURES BY POLAND AND HUNGARY.

Not later than 180 days after the date of enactment of this Act, the President shall submit a report to the Congress identifying—

(1) the confidence building measures Poland and Hungary could undertake to facilitate the negotiation of agreements, including bilateral customs and technology transfer agreements, that would encourage greater direct private sector investment in that country; and

(2) the confidence building measures Poland and Hungary could undertake with respect to the treatment accorded those countries under the Export Administration Act of 1979.

SEC. 703. REPORT ON ENVIRONMENTAL PROBLEMS IN POLAND AND HUNGARY.

22 USC 5473.

The first report submitted pursuant to section 704 shall include the following:

(1) Assessment of problems.—An overall assessment of the environmental problems facing Poland and Hungary, including—

(A) a relative ranking of the severity of the problems and their effects on both human health and the general environment;

(B) a listing of the geographical areas of each country that have suffered the heaviest environmental damage, and a description of the source and scope of the damage; and

(C) an assessment of the environmental performance of leading industrial polluters in those countries and the expected effect on pollution levels of industrial modernization.

(2) Priorities and costs for action.—An analysis of the priorities that Poland and Hungary should each assign in addressing its environmental problems, and an estimate of the capital and human resources required to undertake a comprehensive program of environmental protection in that country.

(3) Role of united states and multilateral assistance.—A statement of strategy for United States assistance for the next 5 years to address environmental problems in Poland and Hungary, including—

(A) recommendations for appropriate levels and forms of bilateral financial and technical assistance;

(B) recommendations concerning United States participation in cooperative multilateral undertakings;

(C) an assessment of the feasibility of debt-for-nature swaps as a technique of environmental protection in each country; and

(D) recommendations for minimizing further environmental damage to Krakow, and for the protection and restoration of historic sites in that city.

EC. 704. ANNUAL SEED PROGRAM REPORT.

22 USC 5474.

(a) Findings.—The Congress finds that—

(1) in order to provide the President with maximum flexibility and opportunity for innovation in implementation of the SEED Program, this Act sets forth general goals and modalities for the support of democracy and economic pluralism in Eastern Europe;

(2) prompt United States action in devising specific measures to achieve the goals outlined in this Act will be crucial in generating the public awareness, and the international commitment, necessary for United States leadership of a successful multilateral program of assistance in Eastern Europe; and

(3) clear-cut delineation of such United States actions at an early date is integral to United States leadership of this effort.

(b) Initial Seed Program Report.—Accordingly, the first report pursuant to subsection (c) shall be a comprehensive report that ncludes a full description of all SEED Actions taken pursuant to each provision of this Act since the enactment of this Act.

President of U.S.

(c) Annual Seed Program Report.—Not later than January 31 of each year (beginning in 1991), the President shall submit to the Congress a "Report on the United States Program of Support for East European Democracy (the SEED Program)". Each such report shall describe the assistance provided to each East European country under this Act during the preceding fiscal year. In addition, each such report shall contain an assessment of the progress made by each such recipient country in—

(1) implementing economic policies designed to promote sustained economic growth, develop economic freedom, and increase opportunities for the people of that country; and

(2) adopting and implementing constitutional, legal, and administrative measures that—

(A) affect the powers of the executive and legislative authorities and the independence of the judiciary,

(B) affect the formation and operation of independent political parties, groups, associations, or organizations, or

(C) affect fundamental human rights and civil liberties.

President of U.S.
22 USC 5475.

SEC. 705. REPORTS ON CERTAIN ACTIVITIES.

At the same time each report is submitted pursuant to section 704(c), the President shall submit to the appropriate committees of the Congress a report on the extent of espionage activities against the United States and other member countries of the North Atlantic Treaty Organization by operatives of the government of any East European country that is receiving assistance under this Act. Such reports may be submitted in classified form.

22 USC 5476.

SEC. 706. NOTIFICATIONS TO CONGRESS REGARDING ASSISTANCE.

Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming notifications) applies with respect to obligations of funds made available under that Act to carry out this Act, notwithstanding any other provision of this Act.

TITLE VIII—MISCELLANEOUS PROVISIONS

22 USC 5491.

SEC. 801. SUSPENSION OF SEED ASSISTANCE.

The President should suspend all assistance to an East European country pursuant to this Act if the President determines, and reports to the Congress, that—

(1) that country is engaged in international activities directly and fundamentally contrary to United States national security interests;

(2) the president or any other government official of that country initiates martial law or a state of emergency for reasons other than to respond to a natural disaster or a foreign invasion; or

(3) any member who was elected to that country's parliament has been removed from that office or arrested through extraconstitutional processes.

22 USC 5492.

SEC. 802. DECLARATION OF THE REPUBLIC OF HUNGARY.

(a) Findings.—The Congress finds that—

(1) on October 23, 1989, in a public ceremony in Budapest, the acting President of Hungary declared the Hungarian state to be an independent, democratic Republic of Hungary;

(2) this public ceremony was held on the 33d anniversary of Hungary's 1956 revolution that was bloodily suppressed by Soviet troops;

(3) this public ceremony was held in the same Kossuth Square where the first mass rally of the 1956 revolution was held;

(4) as a further symbol of Hungary's faithfulness to the legacy of the revolution of 1956, the declaration by the acting President was made from the same balcony from which Imre Nagy, the martyred Prime Minister of the revolutionary government of 1956, addressed the citizens of Budapest 33 years before;

(5) the heroic revolt and freedom fight of the Hungarian people in 1956 was an inspirational event, reminding a generation of Americans of the sacrifices people are willing to undertake as the price of liberty; and

(6) the present efforts of the Hungarian people to validate the legacy of the revolution of 1956 by establishing a free, independent, and prosperous Hungary have gained the sympathy and admiration of the American people.

(b) Congressional Declarations.—The Congress—

(1) congratulates the people of Hungary on the declaration of a Republic of Hungary committed to democratic principles; and

(2) expresses its desire to enhance the friendly relations between the people of Hungary and the people of the United States and between their respective governments.

SEC. 803. ADMINISTRATIVE EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

22 USC 5493.

For the purpose of paying administrative expenses incurred in connection with carrying out its functions under this Act, the Agency for International Development may use up to $500,000 each fiscal year of the funds made available to the Agency under this Act.

SEC. 804. RELATION OF PROVISIONS OF THIS ACT TO CERTAIN PROVISIONS OF APPROPRIATIONS ACTS.

22 USC 5494.

Any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that provides that assistance for Poland or Hungary under that Act may be provided "notwithstanding any other provision of law" shall not supersede any otherwise applicable provision of this Act. This section shall not, however, be construed to apply with respect to section 599C(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (or a corresponding provision of a subsequent such appropriations Act).

SEC. 805. CERTAIN USES OF EXCESS FOREIGN CURRENCIES.

22 USC 5495.

(a) Authority To Use.—During fiscal year 1990, the Administrator of the Agency for International Development may use, for the purposes described in subsection (b), such sums of foreign currencies described in subsection (c) as the Administrator may determine, subject to subsection (f).

(b) Purposes for Which Currency May Be Used.—Foreign currencies may be used under this section—

(1) for the same purposes for which assistance may be provided under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to economic assistance), and

(2) for the support of any institution providing education for a significant number of United States nationals (who may include

members of the United States Armed Forces or the Foreign Service or dependents of such members).

(c) **CURRENCIES WHICH MAY BE USED.**—The foreign currencies which may be used under this section are United States-owned excess foreign currencies that are in excess of amounts necessary for satisfaction of preexisting commitments to use such currencies for other purposes specified by law.

(d) **WHERE CURRENCIES MAY BE USED.**—Foreign currencies may be used under this section in the country where such currencies are held or in other foreign countries.

(e) **NONAPPLICABILITY OF OTHER PROVISIONS OF LAW.**—Foreign currencies may be used under this section notwithstanding section 1306 of title 31, United States Code, or any other provision of law.

(f) **REQUIREMENT FOR APPROPRIATIONS ACTION.**—The authority of this section may be exercised only to such extent or in such amount as may be provided in advance in an appropriation Act.

Approved November 28, 1989.

LEGISLATIVE HISTORY—H.R. 3402 (S. 1582):

HOUSE REPORTS: No. 101-278, Pt. 1 (Comm. on Ways and Means), Pt. 2 (Comm. on Foreign Affairs), Pt. 3 (Comm. on Public Works and Transportation), and No. 101-377 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 19, considered and passed House.
Oct. 25, 27, Nov. 9, 13, S. 1582 considered in Senate.
Nov. 14, H.R. 3402 considered and passed Senate amended, in lieu of S. 1582.
Nov. 16, House concurred in Senate amendments with an amendment.
Nov. 17, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 28, Presidential statement.

○

Public Law 101-180
101st Congress

An Act

To extend the United States Commission on Civil Rights.

Nov. 28, 1989
[H.R. 3532]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Commission Reauthorization Act of 1989".

Civil Rights Commission Reauthorization Act of 1989.
42 USC 1975 note.

SEC. 2. REAUTHORIZATION.

The United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975 et seq.) is amended—

(1) in section 7 (42 U.S.C. 1975e), by striking "1989" and inserting "1991"; and

(2) in section 8 (42 U.S.C. 1975f), by striking "six years after its date of enactment" and inserting "on September 30, 1991".

Approved November 28, 1989.

LEGISLATIVE HISTORY—H.R. 3532 (S. 1891):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 14, 15, considered and passed House.
Nov. 16, considered and passed Senate, amended, in lieu of S. 1891.
Nov. 17, House concurred in Senate amendment.

○

Public Law 101-181
101st Congress

Joint Resolution

Nov. 28, 1989
[H.J. Res. 357]

Providing for the reappointment of Samuel Curtis Johnson as a citizen regent of the Board of Regents of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Samuel Curtis Johnson of Wisconsin on December 4, 1989, is filled by the reappointment of the incumbent for a term of six years, effective December 5, 1989.

Approved November 28, 1989.

LEGISLATIVE HISTORY—H.J. Res. 357 (S.J. Res. 199):

SENATE REPORTS: No. 101-146 accompanying S.J. Res. 199 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 15, considered and passed Senate.
Oct. 2, S.J. Res. 199 considered and passed Senate.
Nov. 13, H.J. Res. 357 considered and passed House.

O

Public Law 101-182
101st Congress

Joint Resolution

Providing for the reappointment of Jeannine Smith Clark as a citizen regent of the Board of Regents of the Smithsonian Institution.

Nov. 28, 1989
[H.J. Res. 358]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Jeannine Smith Clark of the District of Columbia on August 25, 1989, is filled by the reappointment of the incumbent for a term of six years, effective August 26, 1989.

Approved November 28, 1989.

LEGISLATIVE HISTORY—H.J. Res. 358 (S.J. Res. 200):

SENATE REPORTS: No. 101-147 accompanying S.J. Res. 200 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 2, S.J. Res. 200 considered and passed Senate.
Nov. 13, H.J. Res. 358 considered and passed House.
Nov. 15, considered and passed Senate.

O

39-139 0 - 89 (182)

PUBLIC LAW 101-183—NOV. 28, 1989

SOUTH DAKOTA-NEBRASKA BOUNDARY COMPACT

39-139 O - 89 (183)

Public Law 101-183
101st Congress

Joint Resolution

Nov. 28, 1989
[H.J. Res. 393]

To grant the consent of Congress to the boundary change compact between South Dakota and Nebraska.

Real property.
Rivers and harbors.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the consent of Congress is hereby given to—

(1) the South Dakota-Nebraska Boundary Compact, approved by the State of South Dakota on March 14, 1989, and by the State of Nebraska on May 25, 1989; and

(2) the establishment of the boundary between the States of South Dakota and Nebraska agreed to in the compact referred to in paragraph (1).

(b) The South Dakota-Nebraska Boundary Compact is substantially as follows:

SOUTH DAKOTA-NEBRASKA BOUNDARY COMPACT

WHEREAS, the Missouri River has constituted the territorial boundary between the state of Nebraska and the state of South Dakota common to Dakota County, Nebraska, and Union County, South Dakota; and,

WHEREAS, by the forces of nature and construction, operation and maintenance efforts by agencies of the federal government, the flow of the Missouri River has changed its course, and the main channel of the river has changed its position in many areas along the boundary between said counties of the states; and,

WHEREAS, disputes between the state of Nebraska and the state of South Dakota, their political and governmental subdivisions, citizens and other persons have arisen with respect to the location of the true boundary between said counties of the states; and,

WHEREAS, there has for many years existed as between said counties of the states, a question as to the true and correct boundary line between them; and,

WHEREAS, in some areas land is taxed or may be taxed by governmental bodies in both states and in other areas land may be untaxed by governmental bodies in either state; and,

WHEREAS, at times courts have found some land as located in Nebraska, at other times the courts have found the same land as located in South Dakota; and,

WHEREAS, the Missouri River is now relatively stabilized by work done under the direction and supervision of the United States Army Corps of Engineers, and a boundary based upon the present main channel of the Missouri River would be, if the works are properly maintained, as near as can be anticipated at this time, fixed and permanent; and,

WHEREAS, it is to the best interest of the states of Nebraska and South Dakota, their political and governmental subdivisions and their citizens, to determine a new and compromise boundary between said counties of the states, to avoid litigation and multiple exercises of sovereignty and jurisdiction, to encourage the optimum beneficial use of the river, its facilities and its waters, and to remove all causes of controversy between said states with respect to the boundary between said counties of the states; and,

WHEREAS, the states by entering into an agreement for a new boundary are not recognizing and do not desire to recognize the former compact boundary established between them by their legislative actions and the consent of the Congress in 1905; and,

WHEREAS, because of the numerous natural cutoffs over the years and the construction and stabilization work by the Corps of Engineers, which included the dredging of channels and construction of dikes and revetments, thus moving the river around and across islands, bar areas, and lands, as between the states, neither of them recognizes any presumption that the river has moved gradually into the present designed channel location; and,

WHEREAS, the states recognize that the Corps of Engineers' activities have caused tracts of land formerly on one side of the river to be isolated on the other side, and the states recognize there may have been many natural cutoffs of the Missouri River prior to the stabilization work by the Corps of Engineers; and,

WHEREAS, as to lands along or in proximity to the Missouri River, the states desire not to disturb private titles or claims which may have been established by individuals by recognizing or locating any specific areas as belonging to or being within one state or the other; instead the states desire to leave any questions of private titles to the parties involved; and,

WHEREAS, the terms of this compact shall be binding upon the states, their political and governmental subdivisions and officers and agents thereof; and,

WHEREAS, the parties recognize that the present main channel of the Missouri River as it exists within the designed channel stabilized by the Corps of Engineers is or may be different from a line parallel and equidistant from the present banks of the Missouri River; and,

WHEREAS, the states of Nebraska and South Dakota have agreed upon the terms and provisions of a compact to establish the boundary between said counties of the state.

To these ends, duly appointed commissioners for the state of Nebraska and the state of South Dakota jointly convened on February 24, 1989, in Lincoln, Nebraska, and have resolved to conclude a compact, following enactment by their respective legislative bodies and with consent of the Congress of the United States, and have agreed upon the following Articles:

ARTICLE I. Findings and Purposes

(a) The state of Nebraska and the state of South Dakota find that there have been actual and potential disputes, controversies, criminal proceedings and litigation arising or which may arise out of the location of the boundary line between Dakota County, Nebraska, and Union County, South Dakota; that the Missouri River constituting the boundary between said counties of the states has changed its course from time to time, and that the United States Army Corps of Engineers has established a designed channel of the river for navigation and other purposes, which is described and shown in the survey referred to in Article II.

(b) It is the principal purpose of the states in executing this compact to establish an identifiable compromise boundary between said counties of the states for the entire distance thereof as of the effective date of this compact without interfering with or otherwise affecting private rights or titles to property, and the states declare that further compelling purposes of this compact are: (1) to create a friendly and harmonious interstate relationship; (2) to avoid multiple exercise of sovereignty and jurisdiction including matters of taxation, judicial and police powers and exercise of administrative authority; (3) to encourage settlement and disposition of pending litigation and criminal proceedings and avoid or minimize future disputes and litigations; (4) to promote economic and political stability; (5) to encourage the optimum mutual beneficial use of the Missouri River, its waters and its facilities; (6) to establish a forum for settlement of future disputes; (7) to place the boundary in a new or reestablished location which can be identified or located; and (8) to express the intent and policy of the states that the common boundary between said counties be established within the confines of the Missouri River and both states shall continue to have access to and use of the waters of the river.

ARTICLE II. Establishment of Boundary

(a) The permanent compromise boundary line between said counties of the states shall be fixed at the centerline of the designed channel of the Missouri River (the westerly channel adjacent to Section 5, Township 29 North, Range 7 East of the 6th P.M. shall be considered the main channel). The state of Nebraska and the state of South Dakota by the ratification of this document agree to accurately describe the centerline of the design channel by reference to permanent monuments which shall be placed at locations which are easily accessible and safe from destruction. The Nebraska State Surveyors Office and a representative from South Dakota shall jointly supervise and approve placement of the monuments and the location of the compact boundary. Upon completion, the maps and record of the survey shall be incorporated herein and made a part hereof by reference. Said maps shall be placed on file with the secretaries of state of South Dakota and Nebraska. The approval of contracts and all necessary costs for the accurate survey and placement of proper monuments shall be shared equally between the states of South Dakota and Nebraska.

(b) This centerline of the channel of the Missouri River as described on said survey shall hereinafter be referred to as the "compromise boundary."

ARTICLE III. Relinquishment of Sovereignty

On the effective date of this compact, the state of South Dakota hereby relinquishes to the state of Nebraska all sovereignty over lands lying on the Nebraska side of said compromise boundary and the state of Nebraska hereby relinquishes to the state of South Dakota all sovereignty over lands lying on the South Dakota side of the compromise boundary.

ARTICLE IV. Pending Litigation

Nothing in this compact shall be deemed or construed to affect any litigation pending in the courts of either of the states concerning title to any of the lands, sovereignty over which is relinquished by the state of South Dakota to the state of Nebraska or by the state of Nebraska to the state of South Dakota and any matter concerning the title to lands, sovereignty over which is relinquished by either state to the other, may be continued in the courts of the state where pending until a final determination thereof.

ARTICLE V. Public Records

(a) On and following the effective date of this compact, the public record of real estate titles, mortgages and other liens in the state of Nebraska to any lands, the sovereignty over which is relinquished by the state of Nebraska to the state of South Dakota, shall be accepted as evidence of record title to such lands, to and including the effective date of such relinquishment by the state of Nebraska, by the courts of the state of South Dakota.

(b) On and following the effective date of this compact, the public record of real estate titles, mortgages and other liens in the state of South Dakota to any lands, the sovereignty over which is relinquished by the state of South Dakota to the state of Nebraska, shall be accepted as evidence of record title to such lands, to and including the effective date of such relinquishment by the state of South Dakota, by the courts of the state of Nebraska.

(c) As to lands, the sovereignty over which is relinquished, on the effective date of this compact the recording officials of each state including the counties thereof shall accept for filing documents of title using legal descriptions derived from the land descriptions of the other state. The acceptance of such documents for filing shall have no bearing upon the legal effect or sufficiency thereof.

ARTICLE VI. Taxes

(a) Taxes for the calendar year of the effective date of this compact which are lawfully imposed by either Nebraska or South Dakota may be levied and collected by such state or its authorized governmental subdivisions and agencies on land, subsequent jurisdiction over which is relinquished by the taxing state to the other, and any liens or other rights accrued or accruing, including the right of collection, shall be fully recognized and the county treasurers of the said counties or other taxing authorities affected shall act as agents in carrying out the provisions of this Article; provided, that all liens or other rights arising out of the imposition of taxes, accrued or accruing as aforesaid, shall be claimed or asserted within five years after this compact becomes effective and if not so claimed or asserted shall be forever barred.

(b) The lands, sovereignty over which is relinquished by the state of South Dakota to the state of Nebraska, shall not thereafter be subject to the imposition of taxes in the state of South Dakota from and after the calendar year of the effective date of this compact. The lands, sovereignty over which is relinquished by the state of Nebraska to the state of South Dakota, shall not thereafter be subject to the imposition of taxes in the state of Nebraska from and after the calendar year of the effective date of this compact.

ARTICLE VII. Private Rights

(a) This compact shall not deprive any riparian owner of such riparian owner's rights based upon riparian law and the establishment of the compromise boundary between said counties of the state shall not in any way be deemed to change or affect the boundary line or riparian owners along the Missouri River as between such owners. The establishment of the compromise boundary shall not operate to limit such riparian owner's rights to accretions across such compromise boundary.

(b) No private individual or entity claiming title to lands along the Missouri River, over which sovereignty is relinquished by this compact, shall be prejudiced by the relinquishment of such sovereignty and any claims or possessory rights necessary to establish adverse possession shall not be terminated or limited by the fact that the jurisdiction over such lands may have been transferred by the compact. Neither state will assert any claim of title to abandoned beds of the Missouri River, lands along the Missouri River, or the bed of the Missouri River based upon any doctrine of state ownership of the beds or abandoned beds of navigable waters, as against any land owners or claimants claiming interest in real estate arising out of titles, muniments of title, or exercises of jurisdiction of or from the other state, which titles or muniments of title commenced prior to the effective date of this compact.

ARTICLE VIII. Readjustment of Boundary by Negotiation

If at any time after the effective date of this compact, the Missouri River shall move or be moved by natural means or otherwise so that the flow thereof at any point along the course forming the boundary between the states occurs entirely within one of the states, each state at the request of the other, agrees to enter into and conduct negotiations in good faith for the purpose of readjusting the boundary at the place or places where such movement occurred consistent with the intent, policy and purpose hereof that the boundary will be placed within the Missouri River.

ARTICLE IX. Effective Date

(a) This compact shall become effective when ratified by the legislature of the state of Nebraska and the legislature of the state of South Dakota and approved by the Congress of the United States.

(b) As of the effective date of this compact, the state of Nebraska and the state of South Dakota shall relinquish sovereignty over the lands described herein and shall assume and accept sovereignty over such lands ceded to them as herein provided.

(c) In the event this compact is not approved by the legislature of each state on or before July, 1990, and approved by the Congress of the United States within three years from the date hereof, this compact shall be inoperative and for all purposes shall be void.

ARTICLE X. Enforcement

Nothing in this compact shall be construed to limit or prevent either state from instituting or maintaining any action or proceeding, legal or equitable, in any court having jurisdiction, for the protection of any right under this compact or the enforcement of any of its provisions.

Approved November 28, 1989.

LEGISLATIVE HISTORY—H.J. Res. 393 (S.J. Res. 192):

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 17, considered and passed House and Senate.

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Public Law 101-184
101st Congress

An Act

Nov. 28, 1989
[S. 818]

To commemorate the contributions of Senator Clinton P. Anderson to the establishment of the National Wilderness Preservation System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National parks, monuments, etc.

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) Senator Clinton P. Anderson of New Mexico was the leader of the conservation movement in the 88th Congress, which earned the name the "Conservation Congress" for its passage of several landmark conservation measures. Senator Anderson was the guiding sponsor of the Wilderness Act and shepherded it through the 88th Congress, helping secure its passage and enactment on September 3, 1964.

(2) Senator Anderson was influenced by New Mexico conservationist Aldo Leopold, who as a United States Forest Service officer helped establish the Nation's first administratively-designated wilderness in 1924, the Gila Wilderness in the Gila National Forest in New Mexico.

(3) Senator Anderson wrote and spoke eloquently about wilderness and his words continue to inspire his colleagues and the public about conservation. In 1963 he wrote:

"There is a spiritual value to conservation, and wilderness typifies this. Wilderness is a demonstration by our people that we can put aside a portion of this which we have as a tribute to the Maker and say—this we will leave as we found it.

"Wilderness is an anchor to windward. Knowing it is there, we can also know that we are still a rich Nation, tending our resources as we should—not a people in despair searching every last nook and cranny of our land for a board of lumber, a barrel of oil, a blade of grass, or a tank of water.".

(4) On the 25th anniversary of the Wilderness Act, Senator Anderson's living legacy is the 474 units in the National Wilderness Preservation System, totaling nearly 91 million acres.

New Mexico.

SEC. 2. DESIGNATION OF OVERLOOK.

In recognition of the significant role Senator Anderson played in the enactment of the Wilderness Act, the Secretary of Agriculture is authorized and directed to rename the existing Copperas Vista, located on the Gila National Forest in New Mexico, as the "Senator Clinton P. Anderson Wilderness Overlook" and to erect appropriate signs, interpretive facilities, monuments, or plaques commemorating Senator Anderson's contribution to the National Wilderness Preservation System.

Approved November 28, 1989.

LEGISLATIVE HISTORY—S. 818:

SENATE REPORTS: No. 101-88 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 2, considered and passed Senate.
Nov. 17, considered and passed House.

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Public Law 101-185
101st Congress

An Act

Nov. 28, 1989
[S. 978]

To establish the National Museum of the American Indian within the Smithsonian Institution, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Museum of the American Indian Act.
Public buildings and grounds.
Historic preservation.
District of Columbia.
New York.
20 USC 80q note.
20 USC 80q.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Museum of the American Indian Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas;

(2) although the Smithsonian Institution sponsors extensive Native American programs, none of its 19 museums, galleries, and major research facilities is devoted exclusively to Native American history and art;

(3) the Heye Museum in New York, New York, one of the largest Native American collections in the world, has more than 1,000,000 art objects and artifacts and a library of 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(4) the Heye Museum is housed in facilities with a total area of 90,000 square feet, but requires a minimum of 400,000 square feet for exhibition, storage, and scholarly research;

(5) the bringing together of the Heye Museum collection and the Native American collection of the Smithsonian Institution would—

(A) create a national institution with unrivaled capability for exhibition and research;

(B) give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Native Americans;

(C) provide facilities for scholarly meetings and the performing arts;

(D) make available curatorial and other learning opportunities for Indians; and

(E) make possible traveling exhibitions to communities throughout the Nation;

(6) by order of the Surgeon General of the Army, approximately 4,000 Indian human remains from battlefields and burial sites were sent to the Army Medical Museum and were later transferred to the Smithsonian Institution;

(7) through archaeological excavations, individual donations, and museum donations, the Smithsonian Institution has acquired approximately 14,000 additional Indian human remains;

(8) the human remains referred to in paragraphs (6) and (7) have long been a matter of concern for many Indian tribes,

including Alaska Native Villages, and Native Hawaiian communities which are determined to provide an appropriate resting place for their ancestors;

(9) identification of the origins of such human remains is essential to addressing that concern; and

(10) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) is reserved for the use of the Smithsonian Institution and is available for construction of the National Museum of the American Indian.

SEC. 3. NATIONAL MUSEUM OF THE AMERICAN INDIAN.

20 USC 80q-1.

(a) Establishment.—There is established, within the Smithsonian Institution, a living memorial to Native Americans and their traditions which shall be known as the "National Museum of the American Indian".

(b) Purposes.—The purposes of the National Museum are to—

(1) advance the study of Native Americans, including the study of language, literature, history, art, anthropology, and life;

(2) collect, preserve, and exhibit Native American objects of artistic, historical, literary, anthropological, and scientific interest;

(3) provide for Native American research and study programs; and

(4) provide for the means of carrying out paragraphs (1), (2), and (3) in the District of Columbia, the State of New York, and other appropriate locations.

SEC. 4. AUTHORITY OF THE BOARD OF REGENTS TO ENTER INTO AN AGREEMENT PROVIDING FOR TRANSFER OF HEYE FOUNDATION ASSETS TO THE SMITHSONIAN INSTITUTION.

20 USC 80q-2.

The Board of Regents is authorized to enter into an agreement with the Heye Foundation, to provide for the transfer to the Smithsonian Institution of title to the Heye Foundation assets. The agreement shall—

(1) require that the use of the assets be consistent with section 3(b); and

(2) be governed by, and construed in accordance with, the law of the State of New York.

The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over any cause of action arising under the agreement.

Courts, U.S.

SEC. 5. BOARD OF TRUSTEES OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN.

20 USC 80q-3.

(a) In General.—The National Museum shall be under a Board of Trustees with the duties, powers, and authority specified in this section.

(b) General Duties and Powers.—The Board of Trustees shall—

(1) recommend annual operating budgets for the National Museum to the Board of Regents;

(2) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the National Museum;

(3) adopt bylaws for the Board of Trustees;

(4) designate a chairman and other officers from among the members of the Board of trustees; and

Reports.

(5) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other appropriate matters.

Gifts and property.

(c) Sole Authority.—Subject to the general policies of the Board of Regents, the Board of Trustees shall have the sole authority to—

(1) lend, exchange, sell, or otherwise dispose of any part of the collections of the National Museum, with the proceeds of such transactions to be used for additions to the collections of the National Museum or additions to the endowment of the National Museum, as the case may be;

(2) purchase, accept, borrow, or otherwise acquire artifacts and other objects for addition to the collections of the Natural Museum; and

(3) specify criteria for use of the collections of the National Museum for appropriate purposes, including research, evaluation, education, and method of display.

(d) Authority.—Subject to the general policies of the Board of Regents, the Board of Trustees shall have authority to—

(1) provide for restoration, preservation, and maintenance of the collections of the National Museum;

(2) solicit funds for the National Museum and determine the purposes to which such funds shall be applied; and

(3) approve expenditures from the endowment of the National Museum for any purpose of the Museum.

(e) Initial Appointments to the Board of Trustees.—

(1) Membership.—The initial membership of the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) an Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents;

(C) 8 individuals appointed by the Board of Regents; and

(D) 15 individuals, each of whom shall be a member of the board of trustees of the Heye Museum, appointed by the Board of Regents from a list of nominees recommended by the board of trustees of the Heye Museum.

(2) Special rule.—At least 7 of the 23 members appointed under subparagraphs (C) and (D) of paragraph (1) shall be Indians.

(3) Terms.—The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. The terms of the trustees appointed under subparagraph (C) or (D) of paragraph (1) shall be 3 years, beginning on the date of the transfer of the Heye Foundation assets to the Smithsonian Institution.

(4) Vacancies.—Any vacancy shall be filled only for the remainder of the term involved. Any vacancy appointment under paragraph (1)(D) shall not be subject to the source and recommendation requirements of that paragraph, but shall be subject to paragraph (2).

(f) Subsequent Appointments to the Board of Trustees.—

(1) Membership.—Upon the expiration of the terms under subsection (e), the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) an Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents; and

(C) 23 individuals appointed by the Board of Regents from a list of nominees recommended by the Board of Trustees.

(2) SPECIAL RULE.—A least 12 of the 23 members appointed under paragraph (1)(C) shall be Indians.

(3) TERMS.—The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. Except as otherwise provided in the next sentence, the terms of members appointed under paragraph (1)(C) shall be 3 years. Of the members first appointed under paragraph (1)(C)—

(A) 7 members, 4 of whom shall be Indians, shall be appointed for a term of one year, as designated at the time of appointment; and

(B) 8 members, 4 of whom shall be Indians, shall be appointed for a term of 2 years, as designated at the time of appointment.

(4) VACANCIES.—Any vacancy shall be filled only for the remainder of the term involved.

(g) QUORUM.—A majority of the members of the Board of Trustees then in office shall constitute a quorum.

(h) EXPENSES.—Members of the Board shall be entitled (to the same extent as provided in section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses for each day (including travel time) during which they are engaged in the performance of their duties.

SEC. 6. DIRECTOR AND STAFF OF THE NATIONAL MUSEUM.

20 USC 80q-4.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution shall appoint—

(1) a Director who, subject to the policies of the Board of Trustees, shall manage the National Museum; and

(2) other employees of the National Museum, to serve under the Director.

(b) OFFER OF EMPLOYMENT TO HEYE FOUNDATION EMPLOYEES.—Each employee of the Heye Museum on the day before the date of the transfer of the Heye Foundation assets to the Smithsonian Institution shall be offered employment with the Smithsonian Institution—

(1) under the usual terms of such employment; and

(2) at a rate of pay not less than the rate applicable to the employee on the day before the date of the transfer.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary may—

(1) appoint the Director, 2 employees under subsection (a)(2), and the employees under subsection (b) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service;

(2) fix the pay of the Director and such 2 employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates; and

(3) fix the pay of the employees under subsection (b) in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, subject to subsection (b)(2).

SEC. 7. MUSEUM FACILITIES.

20 USC 80q-5.

(a) NATIONAL MUSEUM MALL FACILITY.—The Board of Regents shall plan, design, and construct a facility on the area bounded by

Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia to house the portion of the National Museum to be located in the District of Columbia. The Board of Regents shall pay not more than ⅔ of the total cost of planning, designing, and constructing the facility from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(b) NATIONAL MUSEUM HEYE CENTER FACILITY.—

(1) LEASE OF SPACE FROM GSA.—

(A) TERMS.—Notwithstanding section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j)), the Administrator of General Services may lease, at a nominal charge, to the Smithsonian Institution space in the Old United States Custom House at One Bowling Green, New York, New York, to house the portion of the National Museum to be located in the city of New York. The lease shall be subject to such terms as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution. The term of the lease shall not be less than 99 years.

(B) REIMBURSEMENT OF FEDERAL BUILDINGS FUND.—The Administrator of General Services may reimburse the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) for the difference between the amount charged to the Smithsonian Institution for leasing space under this paragraph and the commercial charge under section 210(j) of such Act which, but for this paragraph, would apply to the leasing of such space. There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this subparagraph for fiscal years beginning after September 30, 1990.

Appropriation authorization.

(2) CONSTRUCTION.—

(A) MUSEUM FACILITY.—The Board of Regents shall plan, design, and construct a significant facility for the National Museum in the space leased under paragraph (1).

(B) AUDITORIUM AND LOADING DOCK FACILITY.—The Administrator of General Services shall plan, design, and construct an auditorium and loading dock in the Old United States Custom House at One Bowling Green, New York, New York, for the shared use of all the occupants of the building, including the National Museum.

(C) SQUARE FOOTAGE.—The facilities to be constructed under this paragraph shall have, in the aggregate, a total square footage of approximately 82,500 square feet.

(3) REPAIRS AND ALTERATIONS.—After construction of the facility under paragraph (2)(A), repairs and alterations of the facility shall be the responsibility of the Board of Regents.

(4) REIMBURSEMENT OF GSA.—The Board of Regents shall reimburse the Administrator for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services incurred with respect to the space leased under paragraph (1) and the full cost of any repairs or alterations made by the General Services Administration at the request of the Smithsonian Institution with respect to the space.

(5) COST SHARING.—

(A) GENERAL RULES.—The Board of Regents shall pay ⅓ of the costs of planning, designing, and constructing the facility under paragraph (2)(A) from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(B) RESPONSIBILITIES OF NEW YORK CITY AND STATE.—Of the costs which are required to be paid from non-Federal sources under this paragraph, the city of New York, New York, and the State of New York have each agreed to pay $8,000,000 or an amount equal to ⅓ of the costs of planning, designing, and constructing the facility under paragraph (2)(A), whichever is less. Such payments shall be made to the Board of Regents in accordance with a payment schedule to be agreed upon by the city and State and the Board of Regents.

(C) LIMITATION ON OBLIGATIONS OF FEDERAL FUNDS.—Federal funds may not be obligated for actual construction of a facility under paragraph (2)(A) in a fiscal year until non-Federal sources have paid to the Board of Regents the non-Federal share of such costs which the Board of Regents estimates will be incurred in such year.

(6) DESIGNATION.—The facility to be constructed under paragraph (2)(A) shall be known and designated as the "George Gustav Heye Center of the National Museum of the American Indian".

(c) MUSEUM SUPPORT CENTER FACILITY.—The Board of Regents shall plan, design, and construct a facility for the conservation and storage of the collections of the National Museum at the Museum Support Center of the Smithsonian Institution.

(d) MINIMUM SQUARE FOOTAGE.—The facilities to be constructed under this section shall have, in the aggregate, a total square footage of at least 400,000 square feet.

(e) AUTHORITY TO CONTRACT WITH GSA.—The Board of Regents and the Administrator of General Services may enter into such agreements as may be necessary for planning, designing, and constructing facilities under this section (other than subsection (b)(2)(B)). Under such agreements, the Board of Regents shall transfer to the Administrator, from funds available for planning, designing, and constructing such facilities, such amounts as may be necessary for expenses of the General Services Administration with respect to planning, designing, and constructing such facilities.

(f) LIMITATION ON OBLIGATION OF FEDERAL FUNDS.—Notwithstanding any other provision of this Act, funds appropriated for carrying out this section may not be obligated for actual construction of any facility under this section until the 60th day after the date on which the Board of Regents transmits to Congress a written analysis of the total estimated cost of the construction and a cost-sharing plan projecting the amount for Federal appropriations and for non-Federal contributions for the construction on a fiscal year basis.

SEC. 8. CUSTOM HOUSE OFFICE SPACE AND AUDITORIUM.

20 USC 80q-6.

(a) REPAIRS AND ALTERATIONS.—The Administrator of General Services shall make such repairs and alterations as may be necessary in the portion of the Old United States Custom House at One Bowling Green, New York, New York, which is not leased to the Board of Regents under section 7(b) and which, as of the date of the enactment of this Act, has not been altered.

(b) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Administrator of General Services $25,000,000 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) to carry out this section and section 7(b)(2)(B).

20 USC 80q-7.

SEC. 9. AUDUBON TERRACE.

(a) IN GENERAL.—The Board of Regents shall—

(1) assure that, on the date on which a qualified successor to the Heye Foundation at Audubon Terrace first takes possession of Audubon Terrace, an area of at least 2,000 square feet at that facility is accessible to the public and physically suitable for exhibition of museum objects and for related exhibition activities;

(2) upon written agreement between the Board and any qualified successor, lend objects from the collections of the Smithsonian Institution to the successor for exhibition at Audubon Terrace; and

(3) upon written agreement between the Board and any qualified successor, provide training, scholarship, technical, and other assistance (other than operating funds) with respect to the area referred to in paragraph (1) for the purposes described in that paragraph.

(b) DETERMINATION OF CHARGES.—Any charge by the Board of Regents for activities pursuant to agreements under paragraph (2) or (3) of subsection (a) shall be determined according to the ability of the successor to pay.

(c) DEFINITION.—As used in this section, the terms "qualified successor to the Heye Foundation at Audubon Terrace", "qualified successor", and, "successor" mean an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code, that, as determined by the Board of Regents—

(1) is a successor occupant to the Heye Foundation at Audubon Terrace, 3753 Broadway, New York, New York;

(2) is qualified to operate the area referred to in paragraph (1) for the purposes described in that paragraph; and

(3) is committed to making a good faith effort to respond to community cultural interests in such operation.

20 USC 80q-8.

SEC. 10. BOARD OF REGENTS FUNCTIONS WITH RESPECT TO CERTAIN AGREEMENTS AND PROGRAMS.

(a) PRIORITY TO BE GIVEN TO INDIAN ORGANIZATIONS WITH RESPECT TO CERTAIN AGREEMENTS.—In entering into agreements with museums and other educational and cultural organizations to—

(1) lend Native American artifacts and objects from any collection of the Smithsonian Institution;

(2) sponsor or coordinate traveling exhibitions of artifacts and objects; or

(3) provide training or technical assistance;

the Board of Regents shall give priority to agreements with Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives. Such agreements may provide that loans or services to such organizations may be furnished by the Smithsonian Institution at minimal or no cost.

(b) INDIAN PROGRAMS.—The Board of Regents may establish—

(1) programs to serve Indian tribes and communities; and

(2) in cooperation with educational institutions, including tribally controlled community colleges (as defined in section 2 of the Tribally Controlled Community College Assistance Act of 1978), programs to enhance the opportunities for Indians in the areas of museum studies, management, and research.

Schools and colleges.

(c) INDIAN MUSEUM MANAGEMENT FELLOWSHIPS.—The Board of Regents shall establish an Indian Museum Management Fellowship program to provide stipend support to Indians for training in museum development and management.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for each fiscal year, beginning with fiscal year 1991, to carry out subsections (b) and (c).

SEC. 11. INVENTORY, IDENTIFICATION, AND RETURN OF INDIAN HUMAN REMAINS AND INDIAN FUNERARY OBJECTS IN THE POSSESSION OF THE SMITHSONIAN INSTITUTION.

20 USC 80q-9.

(a) INVENTORY AND IDENTIFICATION.—The Secretary of the Smithsonian Institution, in consultation and cooperation with traditional Indian religious leaders and government officials of Indian tribes, shall—

(1) inventory the Indian human remains and Indian funerary objects in the possession or control of the Smithsonian Institution; and

(2) using the best available scientific and historical documentation, identify the origins of such remains and objects.

(b) NOTICE IN CASE OF IDENTIFICATION OF TRIBAL ORIGIN.—If the tribal origin of any Indian human remains or Indian funerary object is identified by a preponderance of the evidence, the Secretary shall so notify any affected Indian tribe at the earliest opportunity.

(c) RETURN OF INDIAN HUMAN REMAINS AND ASSOCIATED INDIAN FUNERARY OBJECTS.—If any Indian human remains are identified by a preponderance of the evidence as those of a particular individual or as those of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the descendants of such individual or of the Indian tribe shall expeditiously return such remains (together with any associated funerary objects) to the descendants or tribe, as the case may be.

(d) RETURN OF INDIAN FUNERARY OBJECTS NOT ASSOCIATED WITH INDIAN HUMAN REMAINS.—If any Indian funerary object not associated with Indian human remains is identified by a preponderance of the evidence as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the Indian tribe, shall expeditiously return such object to the tribe.

(e) INTERPRETATION.—Nothing in this section shall be interpreted as—

(1) limiting the authority of the Smithsonian Institution to return or repatriate Indian human remains or Indian funerary objects to Indian tribes or individuals; or

(2) delaying actions on pending repatriation requests, denying or otherwise affecting access to the courts, or limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section.

20 USC 80q-10.

SEC. 12. SPECIAL COMMITTEE TO REVIEW THE INVENTORY, IDENTIFICATION, AND RETURN OF INDIAN HUMAN REMAINS AND INDIAN FUNERARY OBJECTS.

(a) ESTABLISHMENT; DUTIES.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Smithsonian Institution shall appoint a special committee to monitor and review the inventory, identification, and return of Indian human remains and Indian funerary objects under section 11. In carrying out its duties, the committee shall—

(1) with respect to the inventory and identification, ensure fair and objective consideration and assessment of all relevant evidence;

(2) upon the request of any affected party or otherwise, review any finding relating to the origin or the return of such remains or objects;

(3) facilitate the resolution of any dispute that may arise between Indian tribes with respect to the return of such remains or objects; and

(4) perform such other related functions as the Secretary may assign.

(b) MEMBERSHIP.—The committee shall consist of five members, of whom—

(1) three members shall be appointed from among nominations submitted by Indian tribes and organizations; and

(2) the Secretary shall designate one member as chairman.

The Secretary may not appoint to the committee any individual who is an officer or employee of the Government (including the Smithsonian Institution) or any individual who is otherwise affiliated with the Smithsonian Institution.

(c) ACCESS.—The Secretary shall ensure that the members of the committee have full and free access to the Indian human remains and Indian funerary objects subject to section 11 and to any related evidence, including scientific and historical documents.

(d) PAY AND EXPENSES OF MEMBERS.—Members of the committee shall—

(1) be paid the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General schedule under section 5332 of title 5, United States Code; and

(2) be entitled (to the same extent as provided in section 5703 of such title, with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses;

for each day (including travel time) during which they are engaged in the performance of their duties.

Regulations.

(e) RULES AND ADMINISTRATIVE SUPPORT.—The Secretary shall prescribe regulations and provide administrative support for the committee.

(f) REPORT AND TERMINATION.—At the conclusion of the work of the committee, the Secretary shall be so certify by report to the Congress. The committee shall cease to exist 120 days after the submission of the report.

(g) NONAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the committee.

(h) Authorization of Appropriations.—There is authorized to be appropriated $250,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section.

SEC. 13. INVENTORY, IDENTIFICATION, AND RETURN OF NATIVE HAWAIIAN HUMAN REMANS AND NATIVE HAWAIIAN FUNERARY OBJECTS IN THE POSSESSION OF THE SMITHSONIAN INSTITUTION.

20 USC 80q-11.

(a) In General.—The Secretary of the Smithsonian Institution shall—

(1) in conjunction with the inventory and identification under section 11, inventory and identify the Native Hawaiian human remains and Native Hawaiian funerary objects in the possession of the Smithsonian Institution;

Contracts.

(2) enter into an agreement with appropriate Native Hawaiian organizations with expertise in Native Hawaiian affairs (which may include the Office of Hawaiian Affairs and the Malama I Na Kupuna O Hawai'i Nei) to provide for the return of such human remains nd funerary objects; and

(3) to the greatest extent practicable, apply, with respect to such human remains and funerary objects, the principles and procedures set forth in sections 11 and 12 with respect to the Indian human remains and Indian funerary objects in the possession of the Smithsonian Institution.

(b) Definitions.—As used in this section—

(1) the term "Malama I Na Kupuna O Hawai'i Nei" means the nonprofit, Native Hawaiian organization, incorporated under the laws of the State of Hawaii by that name on April 17, 1989, the purpose of which is to provide guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues; and

(2) the term "Office of Hawaiian Affairs" means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

SEC. 14. GRANTS BY THE SECRETARY OF THE INTERIOR TO ASSIST INDIAN TRIBES WITH RESPECT TO AGREEMENTS FOR THE RETURN OF INDIAN HUMAN REMAINS AND INDIAN FUNERARY OBJECTS.

20 USC 80q-12.

(a) In General.—The Secretary of the Interior may make grants to Indian tribes to assist such tribes in reaching and carrying out agreements with—

(1) the Board of Regents for the return of Indian human remains and Indian funerary objects under section 11; and

(2) other Federal and non-Federal entities for additional returns of Indian human remains and Indian funerary objects.

(b) Authorization of Appropriations.—There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years for grants under subsection (a).

SEC. 15. GRANTS BY THE SECRETARY OF THE INTERIOR TO ASSIST INDIAN ORGANIZATIONS WITH RESPECT TO RENOVATION AND REPAIR OF MUSEUM FACILITIES AND EXHIBIT FACILITIES.

20 USC 80q-13.

(a) Grants.—The Secretary of the Interior may make grants to Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives, for renovation and repair of museum facilities and exhibit facilities to enable such organizations to exhibit objects and artifacts on loan from the collections of the Smithsonian Institution or from other sources. Such grants may be made only from the Tribal Museum Endowment Fund.

(b) INDIAN ORGANIZATION CONTRIBUTION.—In making grants under subsection (a), the Secretary may require the organization receiving the grant to contribute, in cash or in kind, not more than 50 percent of the cost of the renovation or repair involved. Such contribution may be derived from any source other than the Tribal Museum Endowment Fund.

(c) TRIBAL MUSEUM ENDOWMENT FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury a fund, to be known as the "Tribal Museum Endowment Fund" (hereinafter in this subsection referred to as the "Fund") for the purpose of making grants under subsection (a). The Fund shall consist of (A) amounts deposited and credited under paragraph (2), (B) obligations obtained under paragraph (3), and (C) amounts appropriated pursuant to authorization under paragraph (5).

Gifts and property.

(2) DEPOSITS AND CREDITS.—The Secretary of the Interior is authorized to accept contributions to the Fund from non-Federal sources and shall deposit such contributions in the Fund. The Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from sale and redemption of, obligations held in the Fund.

(3) INVESTMENTS.—The Secretary of the Treasury may invest any portion of the Fund in interest-bearing obligations of the United States. Such obligations may be acquired on original issue or in the open market and may be held to maturity or sold in the open market. In making investments for the Fund, the Secretary of the Treasury shall consult the Secretary of the Interior with respect to maturities, purchases, and sales, taking into consideration the balance necessary to meet current grant requirements.

(4) EXPENDITURES AND CAPITAL PRESERVATION.—Subject to appropriation, amounts derived from interest shall be available for expenditure from the Fund. The capital of the Fund shall not be available for expenditure.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $2,000,000 for each fiscal year beginning with fiscal year 1992.

(d) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary of the Interior, in consultation with the Secretary of the Treasury, shall submit to the Congress a report of activities under this section, including a statement of—

(1) the financial condition of the Fund as of the end of the preceding fiscal year, with an analysis of the Fund transactions during that fiscal year; and

(2) the projected financial condition of the Fund, with an analysis of expected Fund transactions for the six fiscal years after that fiscal year.

20 USC 80q-14.

SEC. 16. DEFINITIONS.

As used in this Act—

(1) the term "Board of Regents" means the Board of Regents of the Smithsonian Institution;

(2) the term "Board of Trustees" means the Board of Trustees of the National Museum of the American Indian;

(3) the term "burial site" means a natural or prepared physical location, whether below, on, or above the surface of the earth, into which, as a part of a death rite or ceremony of a culture, individual human remains are deposited;

(4) the term "funerary object" means an object that, as part of a death rite or ceremony of a culture, is intentionally placed with individual human remains, either at the time of burial or later;

(5) the term "Heye Foundation assets" means the collections, endowment, and all other property of the Heye Foundation (other than the interest of the Heye Foundation in Audubon Terrace) described in the Memorandum of Understanding between the Smithsonian Institution and the Heye Foundation, dated May 8, 1989, and the schedules attached to such memorandum;

(6) the term "Heye Museum" means the Museum of the American Indian, Heye Foundation;

(7) the term "Indian" means a member of an Indian tribe;

(8) the term "Indian tribe" has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act;

(9) the term "National Museum" means the National Museum of the American Indian established by section 3;

(10) the term "Native American" means an individual of a tribe, people, or culture that is indigenous to the Americas and such term includes a Native Hawaiian; and

(11) the term "Native Hawaiian" means a member or descendant of the aboriginal people who, before 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

20 USC 80q-15.

(a) FUNDING.—There is authorized to be appropriated to the Board of Regents to carry out this Act (other than as provided in sections 7(b)(1)(B), 8, 10, 11, 12, 14, and 15(c)(5))—

(1) $10,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each succeeding fiscal year.

(b) PERIOD OF AVAILABILITY.—Funds appropriated under subsection (a) shall remain available without fiscal year limitation for any period prior to the availability of the facilities to be constructed under section 7 for administrative and planning expenses and for the care and custody of the collections of the National Museum.

Approved November 28, 1989.

LEGISLATIVE HISTORY—S. 978 (H.R. 2668):

HOUSE REPORTS: No. 101-340, Pt. 1 (Comm. on Public Work and Transportation) and Pt. 2 (Comm. on House Administration).
SENATE REPORTS: No. 101-143 (Select Comm. on Indian Affairs and Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 3, considered and passed Senate.
Nov. 13, H.R. 2668 considered and passed House; proceedings vacated and S. 978, amended, passed in lieu.
Nov. 14, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 28, Presidential statement.

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Public Law 101-186
101st Congress

Joint Resolution

Nov. 28, 1989
[S.J. Res. 159]

To designate April 22, 1990, as Earth Day, and to set aside the day for public activities promoting preservation of the global environment.

Whereas we face an international environmental crisis that demands the attention of the American people and citizens of every nation in the world, and we must build alliances that transcend the boundaries dividing countries, continents, and cultures in order to solve it;

Whereas we need to confront environmental problems of increasing severity, including climate change; depletion of the stratospheric ozone layer; loss of forests, wetlands, and other wildlife habitats; acid rain; air pollution; ocean pollution; and hazardous and solid waste buildup;

Whereas we must educate and encourage individuals to recognize the environmental impact of their daily lives by becoming environmentally responsible consumers, conserving energy, increasing recycling efforts, and promoting environmental responsibility in their communities;

Whereas it will take major public policy initiatives to cure the causes of environmental degredation, such as phasing out the manufacture and use of chlorofluorocarbons, minimizing and recycling solid wastes, improving energy efficiency, protecting biodiversity, promoting reforestation, and moving toward sustainable development throughout the world;

Whereas almost twenty years ago, millions of Americans joined together on Earth Day to express an unprecedented concern for the environment, and their collective action resulted in the passage of sweeping laws to protect our air, our water, and the lands around us;

Whereas we must make the 1990s an "International Environment Decade", and forge an international alliance to respond to global environmental problems; and

Whereas to inaugurate this environmental decade, we must once again stand up together in cities, towns, and villages around the world for a day of collective action to declare our shared resolve: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 22, 1990, shall be designated and proclaimed as Earth Day, and that the day shall be set aside for public activities promoting preservation of the global environment.

Approved November 28, 1989.

LEGISLATIVE HISTORY—S.J. Res. 159:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 20, considered and passed Senate.
Nov. 16, considered and passed House.

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Public Law 101-187
101st Congress

Joint Resolution

Nov. 28, 1989
[S.J. Res. 207]

Approving the location of the memorial to the women who served in Vietnam.

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal Lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (100 Stat. 3650, 3651), provides that the location of a commemorative work in the area described therein as area I shall be deemed disapproved unless, not later than one hundred and fifty days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in area I, the location is approved by law;

Whereas the Act approved November 15, 1988 (102 Stat. 3922), authorizes the Vietnam Women's Memorial Project, Incorporated, to establish a memorial on Federal land in the District of Columbia or its environs to honor women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era;

Whereas section 3 of the said Act of November 15, 1988, states the sense of the Congress that it would be most fitting and appropriate to place the memorial within the two and two-tenths acre site of the Vietnam Veterans Memorial in the District of Columbia which is within area I; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by the said Act of November 15, 1988, should be located in area I: Now, therefore, be it

40 USC 1003 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a commemorative work to honor women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era, authorized by the Act approved November 15, 1988 (102 Stat. 3922), in the area described in the Act approved November 14, 1986 (100 Stat. 3650), as area I, is hereby approved.

Approved November 28, 1989.

LEGISLATIVE HISTORY—S.J. Res. 207:

SENATE REPORTS: No. 101-171 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 31, considered and passed Senate.
Nov. 17, considered and passed House.

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Public Law 101-188
101st Congress

Joint Resolution

To designate the week of December 3, 1989, through December 9, 1989, as "National American Indian Heritage Week".

Nov. 28, 1989
[S.J. Res. 218]

Whereas American Indians were the original inhabitants of the territories that now constitute the United States of America;
Whereas American Indians and the descendants of such American Indians have made many essential contributions to this Nation;
Whereas the citizens of the United States should be reminded of the assistance given to our Founding Fathers by the Native Americans; and
Whereas the citizens of the United States should be aware of the present relationship between American Indians and the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 3, 1989, through December 9, 1989, is designated as "National American Indian Heritage Week", and the President is authorized and requested to call upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 28, 1989.

LEGISLATIVE HISTORY—S.J. Res. 218:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 16, considered and passed Senate.
Nov. 20, considered and passed House.

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39-139 0 - 89 - 1 (188)

PUBLIC LAW 101-189—NOV. 29, 1989

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1990 AND 1991

Public Law 101-189
101st Congress

An Act

Nov. 29, 1989
[H.R. 2461]

To authorize appropriations for fiscal years 1990 and 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Years 1990 and 1991.
Arms and munitions.
Uniformed services.
Contracts.

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Years 1990 and 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS

(a) ORGANIZATION OF ACT INTO DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

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(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

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SEC. 3. EXPIRATION OF AUTHORIZATIONS FOR FISCAL YEARS AFTER 1990

Authorizations of appropriations, and of personnel strength levels, in this Act for any fiscal year after fiscal year 1990 are effective only with respect to appropriations made during the first session of the One Hundred First Congress.

SEC. 4. CONGRESSIONAL DEFENSE COMMITTEES DEFINED

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

10 USC 114a note.

SEC. 5. ANNUAL OUTLAY REPORT

(a) ANNUAL REPORT ON OUTLAYS AND BUDGET AUTHORITY REQUIRED.—(1) Not later than December 15, 1989, and not later than December 15 of each year thereafter, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall submit to the Speaker of the House of Representatives and the Committees on Armed Services, Appropriations, and the Budget of the Senate a joint report containing an agreed resolution of all differences between—

(A) the technical assumptions to be used by the Office of Management and Budget in preparing estimates with respect to all accounts in major functional category 050 (National Defense) for the budget to be submitted to Congress pursuant to section 1105 of title 31, United States Code, in the year following the year in which the report is submitted; and

(B) the technical assumptions to be used by the Congressional Budget Office in preparing estimates with respect to such accounts for such budget.

(2) In the event that the Director of the Office of Management and Budget and the Director of the Congressional Budget Office are unable to agree upon any technical assumption, the report shall reflect the average of the relevant outlay rates or assumptions used by the Office of Management and Budget and the Congressional Budget Office.

(3) The report with respect to a budget shall identify the following:

(A) The agreed first-year and outyear outlay rates for each account for the Department of Defense for each fiscal year covered by the proposed budget.

(B) The agreed amount of outlays estimated to occur from unexpended appropriations made for fiscal years prior to the fiscal year that begins after submission of the report.

(b) SENSE OF CONGRESS REGARDING BUDGET RESOLUTIONS AND BUDGET SCOREKEEPING.—It is the sense of Congress that, in order to prevent a recurrence of a mismatch between budget authority and outlays for budget function 050 (National Defense), the technical assumptions contained in the report under subsection (i)(1) with respect to any budget should be used in the preparation of that budget, the preparation of the budget resolution, and in all scorekeeping in connection with budget function 050 (National Defense).

(c) SENSE OF CONGRESS REGARDING REQUIRED REDUCTIONS AND OTHER CHANGES IN NATIONAL DEFENSE OUTLAYS IN RELATION TO BUDGET AUTHORITY.—It is the sense of Congress that the outlay level specified for national defense for any fiscal year in the budget resolution for that fiscal year should not require a reduction (or other change) in outlays for national defense for that fiscal year below (or in relation to) the estimated outlays specified for national defense in the budget for such fiscal year (submitted to Congress pursuant to section 1105 of title 31, United States Code) by more than the amount by which such estimated outlays would be reduced (or otherwise changed) if the amount of budget authority provided for in each title of the President's request for budget authority for national defense (as contained in such budget) were reduced (or otherwise changed) by the uniform percentage necessary for the requested budget authority for national defense to be equal to the budget authority specified for national defense in that budget resolution unless the budget resolution is accompanied by a report that describes the difference between the budget authority and outlays for National Defense (function 050) in the President's budget and the budget resolution.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Part A—Funding Authorizations

SEC. 101. ARMY

(a) Aircraft.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Army as follows:

(1) $3,120,500,000 for fiscal year 1990, of which $1,021,908,000 shall be available for modification of aircraft.

(2) $2,617,038,000 for fiscal year 1991.

(b) Missiles.—Funds are hereby authorized to be appropriated for procurement of missiles for the Army as follows:

(1) $2,756,827,000 for fiscal year 1990, of which $107,337,000 shall be available for modification of missiles.

(2) $2,571,260,000 for fiscal year 1991.

(c) Weapons and Tracked Combat Vehicles.—Funds are hereby authorized to be appropriated for procurement of weapons and tracked combat vehicles for the Army as follows:

(1) $2,717,500,000 for fiscal year 1990.

(2) $2,602,026,000 for fiscal year 1991.

(d) Ammunition.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Army as follows:

(1) $1,887,047,000 for fiscal year 1990.

(2) $1,365,609,000 for fiscal year 1991.

(e) Other Procurement.—Funds are hereby authorized to be appropriated for other procurement for the Army as follows:

(1) $3,068,771,000 for fiscal year 1990, of which—

(A) $446,282,000 is for tactical and support vehicles;

(B) $1,469,183,000 is for communications and electronics equipment; and

(C) $1,153,306,000 is for other support equipment.

(2) $3,146,340,000 for fiscal year 1991.

(f) Installation of Modernization Equipment.—Of the amounts authorized to be appropriated in this section for fiscal year 1990, funds shall be available for procurement and installation of modernization equipment (in addition to the amounts for modifications specified in subsections (a)(1) and (b)(1)) as follows:

(1) Of funds appropriated for aircraft procurement for the Army, $89,900,000.

(2) Of funds appropriated for missile procurement for the Army, $38,300,000.

(3) Of funds appropriated for weapons and tracked combat vehicles, $143,400,000.

(4) Of funds appropriated for other procurement for the Army, $97,700,000.

SEC. 102. NAVY AND MARINE CORPS

(a) Aircraft.—(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy as follows:

(A) $9,500,222,000 for fiscal year 1990.

(B) $4,353,057,000 for fiscal year 1991.

(2) Of the amounts authorized to be appropriated pursuant to paragraph (1) for fiscal year 1990, funds shall be available for certain programs as follows:

(A) For the F-14D aircraft program, $1,529,664,000 of which—

(i) $1,175,336,000 shall be available for procurement of 18 new production F-14D aircraft and related new production close-out;

(ii) $272,000,000 shall be available for procurement of six remanufactured F-14D aircraft; and

(iii) $82,664,000 shall be available for advance procurement for remanufactured F-14D aircraft.

(B) For the CH/MH-53E aircraft program, $254,000,000 for 10 CH-53E aircraft and four MH-53E aircraft, subject to the limitation that any CH-53E aircraft procured with such funds shall be available only for the heavy-lift mission of the Marine Corps.

(C) For modification of aircraft, $600,757,000 shall be available for procurement of aircraft modifications.

(b) WEAPONS.—(1) Funds are hereby authorized to be appropriated for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

(A) $3,884,035,000 for fiscal year 1990.

(B) $1,987,294,000 for fiscal year 1991.

(2) Amounts authorized to be appropriated pursuant to paragraph (2) for fiscal year 1990 shall be available as follows:

(A) For ballistic missile programs, $1,518,165,000.

(B) For other missile programs, $2,798,552,000.

(C) For torpedo programs, $810,954,000 as follows:

For the MK-48 torpedo program, $438,900,000.

For the Sea Lance program, $1,799,000.

For the MK-50 torpedo program, $269,130,000.

For the ASW target program, $12,983,000.

For the ASROC program, $9,282,000.

For the modification of torpedoes and related equipment, $15,653,000.

For the torpedo support equipment program, $39,002,000.

For the antisubmarine warfare range support program, $24,205,000.

(D) For other weapons, $184,361,000, of which—

(i) $74,990,000 is for the MK-15 close-in weapon system; and

(ii) $63,771,000 is for the close-in weapon system modification program.

(E) For spares and repair parts, $94,441,000.

The sum of amounts authorized to be appropriated for fiscal year 1990 for torpedo programs, other weapons, and spares and spare parts is reduced by $7,800,000.

(c) SHIPBUILDING AND CONVERSION.—(1) Funds are hereby authorized to be appropriated for shipbuilding and conversion for the Navy as follows:

(A) $10,958,400,000 for fiscal year 1990.

(B) $9,532,656,000 for fiscal year 1991.

(2) Amounts authorized to be appropriated pursuant to paragraph (1) shall be available as follows:

For the Trident submarine program, $1,137,800,000 for fiscal year 1990.

For the SSN-688 nuclear attack submarine program, $763,300,000 for fiscal year 1990.

For the SSN-21 nuclear attack submarine program, $816,800,000 for fiscal year 1990 and $3,329,000,000 for fiscal year 1991.

For the aircraft carrier service life extension program (SLEP), $651,200,000 for fiscal year 1990 and $76,600,000 for fiscal year 1991.

For the Enterprise refueling/modernization program, $1,422,100,000 for fiscal year 1990.

For the DDG-51 guided missile destroyer program, $3,533,700,000 for fiscal year 1990 and $3,604,700,000 for fiscal year 1991.

For the LHD-1 amphibious assault ship program, $35,000,000 for fiscal year 1990 and $959,900,000 for fiscal year 1991.

For the LSD-41 cargo variant program, $229,300,000 for fiscal year 1990 and $232,700,000 for fiscal year 1991.

For the MCM mine countermeasures program, $341,500,000 for fiscal year 1990.

For the MHC coastal minehunter program, $282,000,000 for fiscal year 1990 and $255,900,000 for fiscal year 1991.

For the AO (Jumbo) conversion program, $35,700,000 for fiscal year 1990.

For the TAGOS ocean surveillance ship program, $155,800,000 for fiscal year 1990.

For the AOE fast combat support ship program, $356,400,000 for fiscal year 1990 and $357,700,000 for fiscal year 1991.

For the oceanographic research ship program, $278,100,000 for fiscal year 1990 and $41,900,000 for fiscal year 1991.

For the moored training ship program, $220,000,000 for fiscal year 1990.

For service craft and landing craft, $56,400,000 for fiscal year 1990 and $88,600,000 for fiscal year 1991.

For the landing craft, air cushion (LCAC) program, $273,300,000 for fiscal year 1990 and $284,000,000 for fiscal year 1991.

For the Fast Sealift ship program, $20,000,000 for fiscal year 1990 and $240,000,000 for fiscal year 1991.

For outfitting and post delivery, $340,000,000 for fiscal year 1990.

For ship production engineering, $61,656,000 for fiscal year 1991.

For ship special support equipment, $10,000,000 for fiscal year 1990.

(d) OTHER PROCUREMENT, NAVY.—(1) Funds are hereby authorized to be appropriated for other procurement for the Navy as follows:

(A) $8,207,125,000 for fiscal year 1990.

(B) $5,144,805,000 for fiscal year 1991.

(2) Of the amounts authorized to be appropriated pursuant to paragraph (1) for fiscal year 1990, funds shall be available for certain programs as follows:

(A) For the ship support equipment program, $711,413,000.

(B) For the communications and electronics equipment program, $1,535,019,000.

(D) For aviation support equipment, $591,398,000.

(E) For the ordnance support equipment program, $1,079,346,000.

(F) For civil engineering support equipment, $113,592,000.

(G) For supply support equipment, $156,081,000.

(H) For personnel and command support equipment, $409,471,000.

(I) For spares and repair parts, $529,905,000.

The sum of amounts authorized to be appropriated for ship support equipment, communications and electronics equipment, ordnance support equipment, and spares and repair parts is reduced by $15,300,000.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for procurement for the Marine Corps as follows:

(1) $1,215,600,000 for fiscal year 1990.

(2) $748,380,000 for fiscal year 1991.

(f) INSTALLATION OF MODERNIZATION EQUIPMENT.—Of the amounts authorized to be appropriated in this section for fiscal year 1990, funds shall be available for procurement and installation of modernization equipment (in addition to the amounts for modification specified in subsections (a)(2)(C) and (d)(2)(A)) as follows:

(1) Of funds appropriated for aircraft procurement for the Navy, $783,400,000.

(2) Of funds appropriated for weapons procurement for the Navy, $33,800,000.

(3) Of funds appropriated for other procurement for the Navy, $3,096,200,000.

(4) Of funds appropriated for procurement for the Marine Corps, $15,400,000.

SEC. 103. AIR FORCE

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for procurement of aircraft for the Air Force as follows:

(1) $16,329,857,000 for fiscal year 1990, of which $2,107,969,000 shall be available for modification of aircraft.

(2) $11,120,820,000 for fiscal year 1991.

(b) MISSILES.—Funds are hereby authorized to be appropriated for procurement of missiles for the Air Force as follows:

(1) $7,110,900,000 for fiscal year 1990, of which $115,647,000 shall be available for modification of missiles.

(2) $5,327,084,000 for fiscal year 1991.

(c) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for other procurement for the Air Force as follows:

(1) $8,538,454,000 for fiscal year 1990, of which—

(A) $410,921,000 is for munitions and associated support equipment;

(B) $224,268,000 is for vehicular equipment;

(C) $2,322,727,000 is for electronics and telecommunications equipment; and

(D) $5,580,538,000 is for other base maintenance and support equipment.

(2) $8,187,568,000 for fiscal year 1991.

(d) INSTALLATION OF MODERNIZATION EQUIPMENT.—Of the amounts authorized to be appropriated in this section for fiscal year 1990, funds shall be available for procurement and installation of modernization equipment (in addition to the amounts for modifications specified in subsections (a)(1) and (b)(1)) as follows:

(1) Of funds appropriated for aircraft procurement for the Air Force, $685,900,000.

(2) Of funds appropriated for missile procurement for the Air Force, $38,400,000.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for procurement for the Defense Agencies as follows:

(1) $1,332,251,000 for fiscal year 1990.

(2) $1,113,169,000 for fiscal year 1991.

SEC. 105. RESERVE COMPONENTS

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal year 1990 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $209,000,000.

(2) For the Air National Guard, $350,500,000.

(3) For the Army Reserve, $75,000,000.

(4) For the Navy Reserve, $74,300,000.

(5) For the Air Force Reserve, $219,500,000.

(6) For the Marine Corps Reserve, $60,000,000.

(b) Installation of Modernization Equipment.—Of the amounts authorized to be appropriated in subsection (a) for fiscal year 1990, funds shall be available for procurement and installation of modernization equipment as follows:

(1) Of funds appropriated for the Navy Reserve, $28,300,000.

(2) Of funds appropriated for the Air Force Reserve, $10,000,000.

(3) Of funds appropriated for the Air National Guard, $59,500,000.

SEC. 106. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747) as follows:

(1) $263,700,000 for fiscal year 1990.

(2) $317,700,000 for fiscal year 1991.

SEC. 107. MULTIYEAR AUTHORIZATIONS

(a) Authorized Multiyear Procurements.—The Secretary of the military department concerned may use funds appropriated for fiscal year 1990 to enter into multiyear procurement contracts in accordance with section 2306(h) of title 10, United States Code, for the following programs:

(1) Army.—For the Department of the Army:

(A) The M-1 Abrams tank program.

(B) The Bradley Fighting Vehicle program.

(C) The MH-47 helicopter program.

(D) The Family of Heavy Tactical Vehicles program.

(2) Navy.—For the Department of the Navy:

(A) The DDG-51 destroyer program.

(B) The SH-60 B/F helicopter program.

(C) The Mark 45 gun mount and Mark 6 ammunition hoist program.

(3) Air Force.—For the Department of the Air Force:

(A) The KC-135 tanker aircraft program.

(B) The Combined Effects Munitions (CEM) program.

(C) The MH-60G helicopter program.

(D) The Maverick AGM65D missile program.

(b) DENIAL OF CERTAIN MULTIYEAR PROCUREMENTS.—The Secretary of the military department concerned may not use funds appropriated for fiscal year 1990 to enter into a multiyear procurement contract for any of the following programs:

(1) The E-2C aircraft program.

(2) The FA-18 aircraft program.

SEC. 108. CHANGES IN PRIOR MILESTONE AUTHORIZATIONS

(a) PROCUREMENT PROGRAMS.—(1) Subsection (a)(2) of section 106 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1034) is amended—

(A) by striking out "$976,200,000" in subparagraph (A) and inserting in lieu thereof "$984,719,000"; and

(B) by striking out "$360,000,000" in subparagraph (B) and inserting in lieu thereof "$68,596,000".

(2) Subsection (b)(2) of such section is amended—

(A) by striking out "$158,200,000" in subparagraph (A) and inserting in lieu thereof "$94,873,000"; and

(B) by striking out "$209,000,000" in subparagraph (B) and inserting in lieu thereof "$199,858,000".

(3) Subsection (c)(2) of such section is amended—

(A) by striking out "$2,215,000,000" in subparagraph (A) and inserting in lieu thereof "$1,514,638,000"; and

(B) by striking out "$2,090,500,000" in subparagraph (B) and inserting in lieu thereof "$1,535,225,000".

(4) Subsection (d)(2) of such section is amended—

(A) by striking out "$437,700,000" in subparagraph (A) and inserting in lieu thereof "$153,114,000"; and

(B) by striking out "$596,300,000" in subparagraph (B) and inserting in lieu thereof "$431,565,000".

(b) RDT&E PROGRAMS.—(1) Subsection (a)(2) of section 216 of such Act (101 Stat. 1051) is amended by striking out "$49,000,000" and inserting in lieu thereof "$44,661,000".

(2) Subsection (b)(2) of such section is amended—

(A) by striking out "$338,300,000" in subparagraph (A) and inserting in lieu thereof "$216,054,000"; and

(B) by striking out "$164,700,000" in subparagraph (B) and inserting in lieu thereof "$70,670,000".

(3) Subsection (c)(2) of such section is amended—

(A) by striking out "$23,700,000" in subparagraph (A) and inserting in lieu thereof "$22,475,000"; and

(B) by striking out "$24,000,000" in subparagraph (B) and inserting in lieu thereof "$14,603,000".

PART B—B-2 AIRCRAFT PROGRAM

SEC. 111. B-2 BOMBER PROGRAM FUNDING AND LIMITATIONS FOR FISCAL YEAR 1990

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 103(a) for procurement of aircraft for the Air Force for fiscal year 1990—

(1) not more than $1,663,974,000 may be obligated for procurement of B-2 aircraft;

(2) not more than $424,800,000 may be obligated for advance procurement of B-2 aircraft; and

(3) not more than $331,600,000 may be obligated for procurement of initial spares for B-2 aircraft.

(b) Block 1 Flight Testing.—Funds appropriated for fiscal year 1990 for procurement of aircraft for the Air Force may not be obligated for the procurement of new production B-2 aircraft until—

(1) the planned Block 1 program of flight testing of the B-2 aircraft (consisting of approximately 75 flight test hours and 15 flights) is completed;

(2) the Director of Operational Test and Evaluation of the Department of Defense—

(A) reviews the Block 1 flight test data;

(B) evaluates the performance of the B-2 aircraft during such flight testing with respect to issues considered to be "Critical Operational Issues"; and

Reports.

(C) submits to the Secretary of Defense a report containing (i) the results of such review and such evaluation (including the Director's findings and conclusions concerning such test data), and (ii) an assessment known as an "Early Operational Assessment"; and

(3) the Secretary of Defense certifies to the congressional defense committees that no major aerodynamic problem or flightworthiness problem has been identified during the Block 1 flight testing of the B-2 aircraft.

(c) Block 2 Flight Testing.—(1) Funds appropriated for fiscal year 1990 for procurement of aircraft for the Air Force may not be obligated for the procurement of B-2 aircraft until Block 2 flight testing (including testing of low-observables and flying qualities and performance testing in accordance with the Test and Evaluation Master Plan approved for the B-2 program) begins.

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(2) Of the amounts made available for fiscal year 1990 for the procurement of B-2 aircraft, not more than 15 percent may be expended until—

(A) the panel of the Defense Science Board known as the Low-Observables Panel conducts an independent review of the test data resulting from early Block 2 flight testing and submits to the Secretary of Defense a report on the results of that review, together with the Panel's findings and conclusions, and a period of seven days elapses after the Secretary receives such report; and

(B) the Secretary of Defense, after receiving such report, certifies to the congressional defense committees that—

(i) the results of early Block 2 flight testing of that aircraft (including testing of low-observables and flying qualities and performance) are satisfactory; and

(ii) no significant technical or operational problems have been identified during early Block 2 flight testing.

(3) Not later than seven days after the date on which the Secretary receives the report under paragraph (2)(A), the Director of Operational Test and Evaluation shall submit to the Secretary the Director's evaluation of the results of the Block 2 flight testing to that date.

(d) Application of Limitations and Requirements.—The limitations in subsections (b) and (c) apply only to the two new production B-2 aircraft for which funds are provided for fiscal year 1990.

SEC. 112. LIMITATION ON ANNUAL PRODUCTION OF B-2 BOMBER FOR FISCAL YEARS AFTER FISCAL YEAR 1990

(a) Required Annual Certification.—Funds appropriated to the Department of Defense for a fiscal year after fiscal year 1990 may not be obligated or expended for procurement for new production aircraft under the B-2 bomber program unless and until the Secretary of Defense submits to the congressional defense committees the certification referred to in subsection (b) with respect to that fiscal year.

Public information.

(b) Certification.—A certification referred to in subsection (a) for any fiscal year is a certification submitted by the Secretary of Defense to the congressional defense committees after the beginning of the fiscal year which is in writing and in unclassified form and in which the Secretary certifies each of the following:

(1) That the performance milestones for the B-2 aircraft for the previous fiscal year for both developmental test and evaluation and operational test and evaluation (as contained in the latest full performance matrix for the B-2 aircraft program established under section 232(a) of Public Law 100-456 and section 121 of Public Law 100-180) have been met.

(2) That the B-2 aircraft has a high probability of being able to perform its intended missions.

(3) That any proposed modification to the performance matrix referred to in paragraph (1) will be provided in writing in advance to the congressional defense committees.

(4) That the cost reduction initiatives established for the B-2 program can be achieved (such certification to be submitted together with details of the savings to be realized).

(5) That the quality assurance practices and fiscal management controls of the prime contractor and major subcontractors associated with the B-2 program meet or exceed accepted United States Government standards.

SEC. 113. ONGOING EVALUATION BY COMPTROLLER GENERAL OF B-2 TEST AND EVALUATION RESULTS

(a) Evaluation.—The Comptroller General of the United States shall review all test reports and evaluation documents of the Department of Defense concerning the B-2 aircraft program.

(b) Reports.—The Comptroller General shall submit to Congress periodic reports setting forth the Comptroller General's findings resulting from the review under subsection (a). In addition to whatever other reports the Comptroller General submits under the preceding sentence, the Comptroller General shall submit a report under that sentence—

(1) not later than 30 days after the date on which the Secretary of Defense submits a certification under section 111(b)(3) with respect to Block 1 flight testing or a certification under section 111(c)(2)(B) with respect to Block 2 flight testing; and

(2) in any fiscal year, not later than 30 days after the date on which the Secretary of Defense submits a certification under section 112(a) with respect to that fiscal year.

(c) Matters To Be Included in Report.—Each report under subsection (b) shall include the Comptroller General's evaluation of—

(1) the rigor, realism, and adequacy of the developmental test and evaluation and the operational test and evaluation activities;

(2) whether such test and evaluation complies with the full performance matrix described in section 112(b)(1); and

(3) whether threat data as agreed upon within the United States intelligence community was fully used in the test and evaluation process.

(d) UNCLASSIFIED SUMMARY.—Each such report shall include an unclassified statement containing a summary of the findings of the Comptroller General with respect to each principal matter discussed in the report.

SEC. 114. REPORT ON COST, SCHEDULE, AND CAPABILITY

(a) REQUIRED REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the cost, schedule, and capability of the B-2 aircraft program. The report shall provide the following:

(1) An unclassified integrated program schedule for the B-2 aircraft program that includes—

(A) the total cost of the program shown by fiscal year, including costs (shown by fiscal year) for research and development, for procurement (including advance procurement, spares, and modifications), for military construction, for operation and maintenance, and for personnel (with all such costs to be expressed in both base year and then year dollars); and

(B) the proposed annual buy rate of B-2 aircraft.

(2) A detailed statement of the mission and requirements for the B-2 aircraft, including the current and projected capability (based on threat data as agreed upon within the United States intelligence community) of the B-2 aircraft to conduct missions against strategic relocatable targets and to conduct conventional warfare operations.

(3) A detailed assessment of the performance of the B-2 aircraft, together with a comparison of that performance with the performance of existing strategic penetrating bombers of the United States based on threat data as agreed upon within the United States intelligence community.

(4) A detailed assessment of the technical risks associated with the B-2 program, particularly those risks associated with the avionics systems and components of the aircraft.

(b) LIMITATION ON FUNDING UNTIL REPORT SUBMITTED.—Funds appropriated to the Department of Defense for fiscal year 1990 may not be obligated or expended for procurement for new production aircraft under the B-2 bomber program until the report required by subsection (a) is submitted to the congressional defense committees.

SEC. 115. ONGOING INDEPENDENT ASSESSMENT OF B-2 AIRCRAFT PROGRAM

(a) INDEPENDENT ASSESSMENT.—The Secretary of Defense shall provide for an ongoing independent assessment of the technological capabilities and performance of the B-2 aircraft. The Secretary shall appoint a panel of experts and shall use the resources of federally funded research and development centers (FFRDCs) to conduct the assessment. The Secretary shall provide the panel such resources as are necessary, including technical assistance by private contractors and the United States intelligence community, to assist the panel in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(b) Report.—The panel shall submit periodic reports of its findings to Congress. The first such report shall be submitted not later than April 1, 1990. Subsequent reports shall be submitted every six months thereafter until B-2 aircraft procurement is completed. Such reports shall be submitted in both classified and unclassified form. Each such report shall address the following matters:

Union of Soviet Socialist Republics.

(1) The capability of air defenses of the Soviet Union to defeat the B-2 aircraft during the designed service life of that aircraft, taking into consideration in particular—

(A) the low radar signature and anticipated performance of the aircraft;

(B) technological capabilities of the Soviet Union;

(C) developments by the Soviet Union of alternatives to defeat the B-2 aircraft; and

(D) the estimated cost to the Soviet Union to defeat the B-2 aircraft.

(2) The rationale for building the B-2 aircraft as a manned penetrating bomber, taking into consideration in particular—

(A) the missions of the aircraft;

(B) the capabilities of the aircraft to complete those missions; and

(C) the capability of the aircraft to search for, identify, and destroy strategic relocatable targets.

(3) The opportunity costs associated with the B-2 program as compared to other available or emerging technologies and operational concepts that could perform the missions of the B-2 aircraft at lesser costs.

(4) The planned service life of the B-2 aircraft and the potential for growth in that planned service life through the incorporation of preplanned product improvements and other modifications.

(5) The requirements for any follow-on aircraft or system that incorporates both low observable technology and high speed maneuverability.

(6) An assessment of the capability of the United States to defeat, identify, and destroy low observable vehicles, including manned aircraft and unmanned systems.

SEC. 116. SUBMISSION OF UNCLASSIFIED VERSION OF B-2 PERFORMANCE MATRIX

Reports.

The Secretary of Defense shall submit to the congressional defense committees a report containing an unclassified version of the latest full performance matrix for the B-2 program established under section 121 of Public Law 100-180 and section 232 of Public Law 100-456. The report shall be submitted at the same time as the budget of the President for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code.

SEC. 117. REPORTS RELATING TO CORRECTION-OF-DEFICIENCIES CLAUSES IN B-2 AIRCRAFT PROCUREMENT CONTRACTS

(a) Reports Required.—The Secretary of Defense shall submit to the congressional defense committees two reports on the implementation of the contractor guarantee requirements of section 2403 of title 10, United States Code, with respect to the B-2 aircraft program. Each such report shall include the following:

(1) A copy of each so-called "correction of deficiency" clause in a contract with the prime contractor for the B–2 aircraft program in effect as of the date of the submission of the report.

(2) The plans of the Department of Defense for meeting the requirements of subsection (b) of section 2403 of title 10, United States Code, in future contracts for the procurement of B–2 aircraft, including a copy of any specific contract clause that has been agreed to by the Air Force and the contractor under that subsection.

(3) The manner in which inspection or acceptance by the Air Force will affect the relative liability of the Government and the contractor—

(A) under the contract clauses referred to in paragraphs (1) and (2), and

(B) under the plans referred to in paragraph (2) for compliance with the contractor guarantee requirements referred to in that paragraph.

(b) SUBMISSION OF REPORTS.—The first report required by subsection (a) shall be submitted not later than 30 days after the date of the enactment of this Act. The second report shall be submitted in conjunction with the certification under section 111(b)(3).

(c) PROTECTION OF PROPRIETARY INFORMATION.—The reports required by this section shall be submitted in classified and unclassified versions and shall clearly identify any material that contains proprietary information or other source selection information, the disclosure of which is restricted by law or regulation.

(d) MODIFICATION OF CORRECTION-OF-DEFICIENCY CLAUSES.—(1) The Secretary of the Air Force shall take appropriate steps to ensure—

(A) that the procurement of all B–2 aircraft authorized for fiscal years 1989 and 1990 is subject to a contractor guarantee pursuant to section 2403 of title 10, United States Code; and

(B) that the prime contractor for such aircraft is required to assume a substantially greater responsibility for the cost of corrective actions required under section 2403(b) of such title than under existing contracts for B–2 aircraft.

(2) Notwithstanding section 2403(g) of such title, the Secretary may not negotiate exclusions or limitations on the prime contractor's financial liability for the cost of corrective action for defects under section 2403(b) of such title for the B–2 aircraft referred to in paragraph (1) that would result in the total of such liability for such costs being less than the total of the contractor's target profit on the production of such aircraft unless the Secretary determines that the specific benefits of such exclusions or limitations substantially outweigh the potential costs.

(3) Whenever the Secretary makes a determination under paragraph (2), the Secretary shall notify the congressional defense committees of that determination and shall include in such notification the specific reasons for such determination and copies of any relevant exclusions or limitations.

(4) The Secretary shall describe in the reports required by subsection (a) the steps the Air Force has taken under this subsection.

(5) Nothing in this section shall be construed to require the renegotiation of any contract in effect on the date of the enactment of this Act.

SEC. 118. STUDY OF ALTERNATIVE B-2 AIRCRAFT FORCE STRUCTURES

(a) REQUIREMENT FOR STUDY.—The Secretary of Defense shall conduct a comprehensive study of the force structure for the B-2 aircraft. Under the study, the Secretary shall compare—

(1) the current plan of the Department of Defense to produce 132 B-2 aircraft, with

(2) two alternative plans for production of B-2 aircraft, one of which would provide for procurement of three wings of B-2 aircraft with a total of 90 to 100 aircraft and the second of which would provide for procurement of two wings of B-2 aircraft with a total of 60 to 70 aircraft.

(b) MATTERS TO BE CONSIDERED.—In conducting the study under subsection (a), the Secretary of Defense shall determine the implications of adopting the alternative plans described in subsection (a)(2) with respect to each of the following:

(1) The cost of the B-2 aircraft program, including—

(A) annual program costs,

(B) total program costs,

(C) 20-year life cycle costs, and

(D) unit and flyaway costs.

(2) The effect on the military and arms control posture of the United States, including—

(A) strategic nuclear deterrent capabilities,

(B) long-range conventional strike capabilities, and

(C) on-going arms control negotiations and post-treaty force structures.

(c) REPORT.—The Secretary shall submit to the congressional defense committees a report in both classified and unclassified form containing the results of the study conducted under subsection (a). The report shall include such comments and recommendations as the Secretary considers appropriate and shall be submitted not later than March 31, 1990.

SEC. 119. SENSE OF CONGRESS ON PROCUREMENT OF B-2 AIRCRAFT

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has devoted substantial resources over the past several decades to the strategic bomber force, including substantial resources for—

(A) significant upgrades to B-52 aircraft;

(B) research, development, and procurement of B-1 aircraft; and

(C) research, development, and procurement of air-launched cruise missiles.

(2) The current estimate of the Department of Defense of a cost of $70,200,000,000 for acquisition of a force of 132 B-2 aircraft is predicated on several assumptions, including the achievement of cost-reduction initiatives, not all of which have been contracted for.

(3) The life-cycle costs for a force of 132 B-2 aircraft would be significantly higher than the acquisition cost estimate of $70,200,000,000.

(4) Funds have been approved for the production of 10 B-2 aircraft through fiscal year 1990, but Congress has not decided the total number of such aircraft that should be produced.

(5) If a substantial number of B-2 aircraft is not procured, additional funds could be made available for other important military programs.

(6) Fiscal year 1990 will constitute the fifth consecutive fiscal year for which the amount appropriated for national defense functions of the Government declined (after adjusting for inflation) from the preceding fiscal year.

(7) Expected limitations on future defense budgets make it essential that the Nation's defense priorities be carefully analyzed so as to properly fund the Armed Forces, including the various elements of the Nation's strategic forces.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) it is not prudent or possible at this time to commit to a production rate for the B–2 aircraft higher than the rate under the low-rate initial production plan;

(2) the contingent authorization of funds in this Act for the low-rate initial production of two additional B–2 aircraft does not constitute a commitment to support the procurement of large numbers of B–2 aircraft, to provide funding in subsequent years for rate production of B–2 aircraft, or to approve a multiyear procurement of B–2 aircraft; and

(3) before a commitment is made to proceed with initial full-rate production of the B–2 aircraft, the President and Congress should carefully consider (based upon the assumption of a START regime that uses the Reykjavik counting rule for bombers, upon the assumption of a START regime that uses alternative rules for counting bombers, and upon the assumption of no START treaty) the desirability and feasibility of—

(A) structuring the strategic bomber force of the United States in such a manner that primary reliance would be placed upon bombers carrying cruise missiles rather than bombers having strictly a penetrating role; and

(B) pursuing options for the procurement of significantly fewer than 132 B–2 aircraft so that, if a decision is made in the future to procure an operational force of B–2 aircraft, the total acquisition and life-cycle cost of the B–2 aircraft program would be reduced.

PART C—OTHER STRATEGIC PROGRAMS

SEC. 121. LIMITATIONS ON B-1B ELECTRONIC COUNTERMEASURES RECOVERY PROGRAM

(a) GENERAL LIMITATION.—The Secretary of the Air Force may proceed with the recovery program for the B–1B aircraft electronic countermeasures (ECM) system only in accordance with this section.

(b) REQUIREMENT FOR TESTING PROGRAM.—(1) During fiscal years 1990 and 1991, the Secretary of Defense shall conduct a comprehensive program for the systematic testing of the B–1B avionics modifications.

(2) For purposes of this section, the term "B–1B avionics modifications" means the modifications proposed by the Air Force to the defensive avionics system of the B–1B aircraft consisting of (A) the "core configuration" modification to the ALQ–161 system, plus (B) the installation and integration of a radar warning receiver.

Reports.

(3) Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a detailed plan for the conduct of the systematic testing

program required by paragraph (1). The plan shall include the following:

(A) The planned test schedule for each of the various components of the defensive avionics system of the B–1B aircraft, to be tested both singly and in combination with other components of the defensive and offensive avionics systems for the aircraft.

(B) The objectives of each of the planned tests and the criteria that will be used to determine whether each such test is successful, partially successful, or unsuccessful.

(C) An explanation of how those scheduled tests can be used to estimate the capability of the B–1B aircraft to penetrate air defenses of the Soviet Union, including both single and multiple air defense threats.

(c) MODIFICATIONS TO B–1B AIRCRAFT.—(1) The Secretary of the Air Force may modify not more than six B–1B aircraft to incorporate the B–1B avionics modifications.

(2) The aircraft that are so modified shall be used to conduct the test program required by subsection (b). The test program shall be carried out in accordance with the plan submitted under subsection (b)(3).

(3) Except as provided in paragraph (4), no B–1B aircraft other than those modified pursuant to paragraph (1) may be modified to incorporate the B–1B avionics modifications until the test program required by subsection (b) is completed.

(4) The Secretary may modify the avionics systems of the first 19 B–1B production aircraft to bring those aircraft to the current avionics configuration of the balance of the B–1B fleet.

(d) BIMONTHLY STATUS REPORTS.—(1) The Secretary of Defense shall submit to the congressional defense committees a report every two months with respect to the test program under subsection (b). Each such report shall indicate whether the tests scheduled in the test plan to be carried out after the date of the submission of the preceding report under this subsection—

(A) have been carried out as scheduled and otherwise in accordance with the test plan; and

(B) whether, in the case of each such test, the test was successful, partially successful, or unsuccessful.

(2) The Secretary shall include in each such report an assessment of the capability of the B–1B aircraft to meet—

(A) performance objectives;

(B) technical and fiscal objectives; and

(C) significant test milestones.

(3) The first such bimonthly report shall be submitted February 1, 1990. The requirement for the submission of such reports shall cease to apply when the test program required by this section is completed.

(e) INDEPENDENT ASSESSMENT BY OUTSIDE PANEL.—(1) Following completion of the test program under subsection (b)(1), the Secretary of Defense shall provide for an independent assessment of the capabilities of the B–1B aircraft to penetrate air defenses of the Soviet Union. The Secretary shall appoint a panel of experts from the private sector to conduct the assessment and shall provide the panel with such resources as are necessary, including technical assistance by private contractors, to assist the panel in conducting the assessment. Individuals appointed to the panel shall be independent of the Air Force and shall have no arrangements with the Air Force that would constitute a conflict of interest.

(2) The panel—

(A) shall assess the air defense capabilities of the test aircraft referred to in subsection (c) after they have been modified with the B-1B avionics modifications; and

(B) on the basis of that assessment, shall determine what the air defense penetration capabilities of the entire fleet of such aircraft would be in all of its mission profiles if every aircraft in the fleet were so modified.

(3) The panel shall estimate the air defense penetration capabilities of the B-1B aircraft against the threats described—

(A) in the 1981 joint Office of the Secretary of Defense/Air Force Bomber Alternatives Study;

(B) in the 1986 Strategic Bomber Force Study; and

(C) in the most current threat baseline established by the intelligence community for estimated Soviet air defenses in the late 1990s.

(4) The Secretary of Defense shall ensure that individuals serving on the panel receive the full cooperation of all components of the Department of Defense in carrying out the functions of the panel under this section.

Reports.

(5) The Secretary shall submit to the congressional defense committees the report of the panel not more than 180 days after the conclusion of the test program referred to in subsection (b).

(f) FUNDING OF B-1B AVIONICS MODIFICATIONS.—(1) Subject to the limitation in paragraph (2), the Secretary may use expired or lapsed funds—

(A) to carry out the B-1B avionics modifications and the testing program established in subsections (b) and (c); and

(B) upon completion of such testing program, to carry out the B-1B avionics modifications on the remainder of the unmodified B-1B aircraft.

(2) The amount of expired or lapsed funds used for any purpose related to development, procurement, modification, or repair of B-1B aircraft (including such amounts of expired or lapsed funds as have been applied to the B-1B program before the enactment of this Act) may not exceed $527,100,000.

(3) The use of expired or lapsed funds for the purposes described in paragraph (1) is subject to section 2782 of title 10, United States Code (as added by section 1603 of this Act).

(4) Funds for the B-1B recovery program for purposes other than those stated in paragraph (1), or for such purposes but in excess of the limitation under paragraph (3), may be provided only by law through the authorization and appropriation process.

(5) For purposes of this subsection, the term "expired or lapsed funds" means funds previously appropriated to the Air Force the availability of which for obligation has expired or lapsed.

(g) ACCESS BY GAO.—(1) The Secretary of Defense shall ensure that the General Accounting Office has full, direct, and timely access to the documentation relating to the recovery program (including test data and results).

(2) The Comptroller General of the United States shall actively monitor the recovery program and shall provide periodic reports to the congressional defense committees on the status and effectiveness of the program.

SEC. 122. ADVANCED CRUISE MISSILE PROGRAM

Funds appropriated or otherwise made available to the Air Force for fiscal year 1990 may not be obligated or expended for procurement of missiles under the Advanced Cruise Missile program until—

(1) there have been at least 10 successful developmental test flights of the Advanced Cruise Missile; and

(2) the Secretary of Defense certifies to the congressional defense committees that since June 1, 1989, a minimum of four flight tests of the Advanced Cruise Missile have been conducted and that, of those tests, the percentage which were successful is significantly greater than 50 percent.

SEC. 123. CAP ON NUMBER OF MX MISSILES THAT MAY BE DEPLOYED

The number of MX missiles deployed at any time may not exceed 50.

SEC. 124. REFERENCE TO LIMITATION ON OBLIGATION OF FUNDS FOR MX RAIL GARRISON PROGRAM

Limitations with respect to the obligation of funds for advance procurement of long-lead items and initial spare parts for the MX Rail Garrison program are set forth in section 231.

PART D—PROGRAM TERMINATIONS

SEC. 131. F-14 AIRCRAFT PROGRAM

(a) In General.—(1) The Secretary of Defense shall terminate new production of F-14 aircraft in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of F-14 aircraft.

(b) Exceptions.—(1) Subject to subsection (c), the prohibition in subsection (a)(2) does not apply to—

(A) the modification of, or the acquisition of spare or repair parts for, F-14 aircraft described in paragraph (2);

(B) completion of the new production aircraft described in paragraph (2)(B); and

(C) the obligation of not more than $1,175,336,000 from funds made available pursuant to section 102(a) for the procurement of not more than 18 new production F-14 aircraft and for payment of costs necessary to terminate the F-14 aircraft program.

(2) The F-14 aircraft referred to in paragraph (1)(A) are—

(A) F-14 aircraft acquired by the Navy on or before the date of enactment of this Act;

(B) F-14 new production aircraft for which funds, other than funds for the procurement of long lead items and other advance procurement, were obligated before the date of enactment of this Act and which are delivered to the Navy on or after that date; and

(C) eighteen F-14 new production aircraft for which funds are available pursuant to section 102(a).

(c) Contract Provisions.—(1) Funds appropriated or otherwise made available to the Department of Defense under this or any other Act may not be obligated for modification of, or the acquisition of spare or repair parts for, the F-14 aircraft until the Secretary of Defense certifies to the congressional defense committees that the

Navy and the prime contractor have entered into a contract that includes a specific prohibition on the use of any funds made available under the contract for new production of any aircraft other than new production aircraft referred to in subparagraph (B) or (C) of subsection (b)(2).

(2) Funds referred to in paragraph (1) may not be obligated for F-14 new production aircraft until the Secretary of Defense certifies to the congressional defense committees that the Navy and the prime contractor have entered into a contract that includes the following provisions:

(A) A provision for the termination of the F-14 program and a provision providing that all termination activities be completed according to a schedule specified in the contract.

(B) A specific prohibition on the use of funds made available under the contract for new production of any aircraft other than new production aircraft referred to in subparagraphs (B) and (C) of subsection (b)(2).

(C) A provision providing that each aspect of the F-14 new production aircraft program be terminated as soon as the Navy determines that continuation of that aspect of the program is no longer necessary for—

(i) completion of new production aircraft referred to in subparagraphs (B) and (C) of subsection (b)(2); or

(ii) modification of, or production of spare or repair parts for, the F-14 aircraft.

(D) A provision providing that the termination schedule specifically require the prime contractor to disassemble, transfer to the United States, or otherwise dispose of all special tooling, test equipment, and technical data of the prime contractor and subcontractors relating to the F-14 aircraft, except for such items as are determined by the Navy to be necessary for the modification or operation and maintenance of F-14 aircraft referred to in subsection (b).

(E) A provision providing that all termination activities are to be completed not later than the date of delivery to the Navy of the last new production aircraft referred to in subsection (b)(1)(C).

SEC. 132. AH-64 HELICOPTER PROGRAM

(a) In General.—(1) The Secretary of Defense shall terminate new production of AH-64 aircraft in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of AH-64 aircraft.

(b) Exceptions.—(1) The prohibition in subsection (a)(2) does not apply to—

(A) the modification of, or the acquisition of spare or repair parts for, AH-64 aircraft described in paragraph (2);

(B) completion of the new production aircraft described in paragraph (2)(B); and

(C) the obligation of not more than $1,487,527,000 from funds made available for fiscal years 1990 and 1991 for not more than 132 new production AH-64 aircraft and for payment of costs necessary to terminate the AH-64 aircraft program.

(2) The AH-64 aircraft referred to in paragraph (1)(A) are—

(A) AH-64 aircraft acquired by the Army on or before the date of enactment of this Act;

(B) AH-64 new production aircraft for which funds, other than funds for the procurement of long lead items and other advance procurement, were obligated before the date of enactment of this Act and which are delivered to the Army on or after that date; and

(C) 132 new production AH-64 aircraft for which funds are available in accordance with subsection (b)(1)(C).

SEC. 133. AHIP SCOUT AIRCRAFT PROGRAM

(a) In General.—(1) The Secretary of Defense shall terminate the AHIP Scout aircraft program in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of AHIP Scout aircraft (OH-58 aircraft modified into the configuration specified in the Army Helicopter Improvement Program described in the Selected Acquisition Report, dated December 31, 1988, relating to the OH-58 helicopter).

(b) Exceptions.—(1) Subject to subsection (c), the prohibition in subsection (a)(2) does not apply to—

(A) the modification of, or the acquisition of spare or repair parts for, AHIP Scout aircraft described in paragraph (2);

(B) completion of the installation of AHIP modification kits in the AHIP Scout aircraft described in paragraph (2)(B); and

(C) the obligation of not more than $195,000,000 from funds made available pursuant to section 101(a) for the procurement and installation of AHIP modification kits in not more than 36 AHIP Scout aircraft and for payment of costs necessary to terminate the AHIP Scout aircraft program.

(2) The AHIP Scout aircraft referred to in paragraph (1)(A) are—

(A) AHIP Scout aircraft acquired by the Army on or before the date of enactment of this Act;

(B) AHIP Scout aircraft for which funds, other than funds for the procurement of long lead items and other advance procurement, were obligated before the date of enactment of this Act and which are delivered to the Army on or after that date; and

(C) 36 AHIP Scout aircraft for which funds are available in accordance with subsection (b)(1)(C).

SEC. 134. F-15E AIRCRAFT PROGRAM

(a) In General.—(1) The Secretary of Defense shall terminate new production of F-15E aircraft in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of F-15E aircraft.

(b) Exceptions.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, F-15E aircraft described in paragraph (2); or

(B) the payment of costs necessary to terminate the F-15E aircraft program.

(2) The F-15E aircraft referred to in paragraph (1)(A) are F-15E aircraft—

(A) that are acquired by the Air Force before October 1, 1991; or

(B) for which funds have been obligated for procurement before October 1, 1991, other than for the procurement of long lead items and other advance procurement.

SEC. 135. M88A2 RECOVERY VEHICLE PROGRAM

(a) In General.—(1) The Secretary of Defense shall terminate new production of M88A2 recovery vehicles in accordance with this section.

(2) Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense pursuant to this or any other Act may not be obligated for the procurement of M88A2 recovery vehicles.

(b) Exceptions.—(1) The prohibition in subsection (a) does not apply to the obligation of funds for—

(A) the completion of, the modification of, or the acquisition of spare or repair parts for, M88A2 recovery vehicles described in paragraph (2); or

(B) the payment of costs necessary to terminate the M88A2 recovery vehicle program.

(2) The M88A2 recovery vehicles referred to in paragraph (1)(A) are M88A2 recovery vehicles—

(A) that were acquired by the Army before the date of enactment of this Act; or

(B) for which funds have been obligated for procurement before the date of the enactment of this Act, other than for the procurement of long lead items and other advance procurement.

SEC. 136. RECONNAISSANCE AIRCRAFT PROGRAMS

The Secretary of Defense shall terminate the SR-71 reconnaissance aircraft program and the classified airborne reconnaissance program as discussed in the classified annex to the joint statement of managers to accompany the conference report on H.R. 2461 of the One Hundred First Congress.

SEC. 137. STATUTORY CONSTRUCTION

A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding any provision of any of sections 131 through 136 unless that provision specifically refers to such section and specifically states that such provision of law modifies or supersedes such section.

Part E—Army Programs

SEC. 141. M-1 TANK PROGRAM

(a) Detroit Army Tank Plant.—None of the funds appropriated for the Army for fiscal year 1990 may be obligated to begin the inactivation or deactivation of the Detroit Army Tank Plant.

Reports.

(b) Block II Modification Program.—Funds appropriated for the Army for fiscal year 1990 may not be obligated for long-lead items and nonrecurring costs for the Block II modification program for the M-1 tank until the Secretary of the Army submits to the Committees on Armed Services of the Senate and House of Representatives a report with respect to the program as described in subsection (c).

(c) Report on Block II Program.—A report under subsection (b) shall—

(1) identify the total funding requirements for the Block II program;

(2) assess the proposed modifications under the program in terms of the results of the live-fire testing;

(3) describe operational implications of the weight increase for the M-1 tank under the proposed modifications;

(4) identify decisions in the program that have an effect on the next generation tank; and

(5) evaluate the overall cost effectiveness of the Block II modification program.

SEC. 142. RESTRICTION ON FISCAL YEAR 1989 FUNDS FOR REFUELERS/TANKERS

Of the funds appropriated or otherwise made available to the Army for fiscal year 1989, not more than $29,000,000 may be available for purposes of procuring and installing 480 tanker/refueler kits on pallets for use by heavy trucks configured with the palletized loading system.

SEC. 143. ARMY RECOVERY VEHICLE PROGRAM

(a) TESTING.—The Secretary of the Army—

(1) shall complete the technical and operational testing of the Army Improved Recovery Vehicle; and

(2) shall study all potential modifications to the existing chassis for the M-88 vehicle to perform the mission for the Improved Recovery Vehicle.

(b) CONDITIONS ON PRODUCTION DECISION.—The Secretary of the Army may not make a decision to enter into production during fiscal year 1990 or 1991 for a recovery vehicle for the Army until each of the following occurs:

(1) Operational testing of the vehicle to be produced is completed.

(2) The Director of Operational Test and Evaluation certifies to the Secretary of the Army that the vehicle meets performance requirements of the Army.

(3) The Secretary of the Army completes—

(A) an analysis of the cost-effectiveness of the vehicle that supports the proposed production decision; and

(B) an analysis of the cost-effectiveness of a service life extension program for the existing recovery vehicle.

SEC. 144. REPEAL OF PROCUREMENT REQUIREMENT AND LIMITATION OF FUNDS FOR THE HEAVY EXPANDED MOBILITY TACTICAL TRUCK

Section 129 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1045) is repealed.

SEC. 145. LIMITATION ON MODIFICATIONS OF CERTAIN SPECIAL OPERATIONS FORCES AIRCRAFT

(a) LIMITATION.—Funds appropriated for fiscal year 1990 for procurement of aircraft for the Army may not be obligated or expended for modifications for MH-60K and MH-47 helicopters until the Secretary of the Army certifies in writing to the congressional defense committees that the cost of any modification, correction of deficiencies, or retrofit that is required for such aircraft to meet established contract specifications and overall system performance requirements will not be borne by the Government.

Reports.

(b) WAIVER.—(1) If the Secretary is unable to make the certification described in subsection (a), the Secretary shall submit to the congressional defense committees a report on the nature and extent of any prospective Government risk with respect to the costs of modifications, corrections, and deficiencies referred to in that subsection. In the report, the Secretary—

(A) shall set forth the type and degree of risk with respect to the affected major subsystem of each of the two aircraft; and

(B) shall specify the contractual agreements for any such areas of risk by affected major subsystem for each aircraft.

(2) Upon the receipt of a report under paragraph (1), the limitation in subsection (a) shall cease to apply.

SEC. 146. LIMITATION ON ACCEPTANCE OF DELIVERY OF STINGER MISSILES

The Secretary of the Army may not accept delivery of Stinger missiles that do not conform to all existing performance requirements unless the Secretary certifies in writing to the congressional defense committees that the contractor is contractually responsible to modify or retrofit delivered missiles in order to meet all performance specifications existing as of the time of delivery at no cost to the Government.

SEC. 147. M109 HOWITZER IMPROVEMENT PROGRAM

The Secretary of the Army may not obligate fiscal year 1990 funds for the M109 Howitzer Improvement Program until—

(1) the Secretary certifies to the congressional defense committees that the Army Acquisition Executive has approved the baseline acquisition program for the Howitzer Improvement Program that is consistent with the current five-year defense program;

Reports.

(2) the Secretary submits that baseline report to Congress; and

Reports.

(3) the Secretary submits to the committees a report on a design for a follow-on operational test of the howitzer and the degree to which the operational and organizational concept for the howitzer will be validated by that test.

SEC. 148. EQUAL EMPLOYMENT OPPORTUNITIES RELATING TO AN ARMY CONTRACT

Funds appropriated for procurement of aircraft for the Army for fiscal year 1990 may not be obligated for the procurement of C-23 Sherpa aircraft unless the Secretary of the Army secures a commitment from the contractor that it will support equal employment opportunities in its employment practices for all individuals irrespective of race, color, religion, sex, or national origin.

PART F—NAVY PROGRAMS

SEC. 151. LIMITATION ON PROCUREMENT OF V-22 OSPREY AIRCRAFT

(a) PROHIBITION.—None of the funds appropriated for fiscal year 1990 or otherwise made available to the Department of Defense for fiscal year 1990 pursuant to this Act or any Act enacted after this Act may be obligated for procurement of V-22 aircraft.

(b) Statutory Construction.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding any provision of this section unless that provision specifically refers to such section and specifically states that such provision of law modifies or supersedes such section.

SEC. 152. PRESERVATION OF DUAL-SOURCE PRODUCTION BASE FOR STANDARD MISSILE II

The Secretary of the Navy shall carry out the fiscal year 1990 acquisition for the Standard Missile II so as to preserve the existing dual-source production base for that missile.

SEC. 153. ANNUAL REPORT ON NAVY AIRCRAFT REQUIREMENTS

(a) Annual Report Requirement.—(1) Chapter 635 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7345. Navy aircraft requirements: annual report

"(a) Not later than September 1 of each year, the Secretary of the Navy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report addressing the current and projected aircraft requirements of the Navy and the plans of the Navy for aircraft acquisition and modernization.

"(b) Each such report shall cover at least the next 10 years and shall specify the following:

"(1) The number of aircraft, by type, required to fully equip the current and projected force structure of the Navy and the Marine Corps.

"(2) The current and projected inventory of each type of aircraft.

"(3) The current average age of (A) all Navy and Marine Corps aircraft, (B) all Navy and Marine Corps combat aircraft, and (C) all carrier-based combat aircraft.

"(4) A list of planned and programmed aircraft acquisition programs and major aircraft modernization programs, specifying (A) the approximate numbers of aircraft involved in each program, (B) the estimated fiscal year in which each program will begin and end, and (C) the estimated total cost for each program.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7345. Navy aircraft requirements: annual report.".

(b) Initial Report.—Not later than February 1, 1990, the Secretary of the Navy shall submit to the congressional defense committees a report containing the information specified in section 7345 of title 10, United States Code, as added by subsection (a). 10 USC 7345 note.

SEC. 154. FAST SEALIFT SHIP PROGRAM

(a) Program.—The Secretary of Defense is authorized to establish a fast sealift ship program.

(b) Report.—The Secretary of the Navy may not obligate funds for procurement of ships for the fast sealift ship program until 30 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the design characteristics for those ships. The report shall describe in detail the multimission capability of the ships and shall specify the operational concept for the use of those ships in contingencies requiring sealift and in routine fleet operations.

SEC. 155. TRANSFER OF A-6 AIRCRAFT TO THE NAVY

The Secretary of the Navy shall transfer all Marine Corps A-6 Intruder aircraft from the Marine Corps to the Navy not later than September 30, 1994.

SEC. 156. REPORT REGARDING TRIDENT SUBMARINE CONSTRUCTION RATE

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a written report, in both a classified and unclassified version, evaluating the practicality and desirability of reducing the rate at which Trident submarines are procured.

(b) PREPARATION AND CONTENT.—In preparing the report required by subsection (a), the Secretary shall consider alternative construction rates for the Trident submarine, each of which shall provide for a construction rate slower than one ship per year. The Secretary shall include in the report with respect to each such alternative rate—

(1) an evaluation of the effect of the alternative rate on—

(A) the availability and capability of the Trident submarine to perform the mission assigned to it; and

(B) the level and stability of the work force in the naval shipbuilding industry; and

(2) a discussion of the practicality and desirability of accelerating the procurement of other vessels for the Navy with funds saved by using the alternative rate.

(c) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted concurrently with the submission of the budget for fiscal year 1991 to Congress pursuant to section 1105 of title 31, United States Code.

PART G—NONSTRATEGIC AIR FORCE PROGRAMS

SEC. 161. MC-130H (COMBAT TALON) AIRCRAFT PROGRAM

(a) REQUIRED CERTIFICATION.—Funds appropriated pursuant to this Act may not be obligated for the payment of an award fee and the procurement of contractor-furnished equipment for the MC-130H Combat Talon aircraft until the Director of Operational Test and Evaluation determines (and certifies under subsection (c)) that the results of qualification test and evaluation and of qualification operational test and evaluation demonstrate that such aircraft is capable of performing terrain following/terrain avoidance flight profiles as prescribed in the approved test and evaluation master plan for the Combat Talon II program dated September 1988.

(b) LIMITATION ON PRODUCTION OPTION FOR AVIONICS INTEGRATION.—If the certification under subsection (a) is made after April 30, 1990, the Secretary of the Air Force may not incur any costs to the Government when the Secretary executes the production option for avionics integration for the MC-130H program for fiscal year 1990 in excess of the costs that the Secretary would have incurred for such purpose in April 1990.

(c) **Submission of Certification.**—A certification under subsection (a) shall be submitted in writing to the congressional defense committees.

SEC. 162. AC-130U GUNSHIP PROGRAM

No funds may be obligated after the date of the enactment of this Act for procurement of AC-130U Gunship aircraft until the Secretary of the Air Force certifies in writing to the congressional defense committees that the cost of any modification, correction of deficiencies, or retrofit that is required to address and to meet established contract specifications and performance requirements for AC-130U Gunship aircraft procured using funds appropriated for the Department of Defense for fiscal year 1988 or fiscal year 1989 will be borne by the prime contractor or an appropriate subcontractor.

SEC. 163. AMRAAM MISSILE PROGRAM

(a) **Limitation on Funding.**—No funds may be obligated to undertake full-rate production of the Advanced Medium-Range Air-to-Air (AMRAAM) missile until the Director of Operational Test and Evaluation (pursuant to section 138 of title 10, United States Code) certifies to the congressional defense committees that—

(1) all required testing for making the decision to proceed to full-rate production (as prescribed pursuant to the June 16, 1987 Department of Defense-approved AMRAAM Test and Evaluation Master Plan) has been conducted; and

(2) the results of that testing demonstrate that (A) the AMRAAM missile has met all established performance requirements, and (B) stable missile production design and configuration (including its software) have been established.

(b) **Full-Rate Production Defined.**—For purposes of subsection (a), full-rate production of the AMRAAM missile is production of that missile at a rate that exceeds [illegible] production-configured missiles per year.

(c) **Preservation of Production Capability of Other Missiles.**—During the period beginning on the date of the enactment of this Act and ending on the date on which the certification required by subsection (a) is made, the Secretary of Defense shall ensure that production capability for the AIM-7F/M Sparrow and the AIM-9L/M Sidewinder missiles is maintained.

SEC. 164. OVER-THE-HORIZON BACKSCATTER RADAR

(a) **Requirements.**—None of the funds appropriated or otherwise made available to the Air Force for fiscal year 1990 may be obligated for acquisition of land for the Central System of the Over-the-Horizon Backscatter (OTH-B) radar program.

(b) **Alaskan System.**—(1) With respect to acquisition of that portion of the OTH-B radar program known as the Alaskan System, the Secretary of the Air Force—

(A) shall enter into a type of contract known as a "fixed-price incentive (firm target) contract" or a "fixed-price incentive (successive target) contract" (or a similar type of contract that encourages maximum cost reduction) for the first sector of the system with funds appropriated for fiscal years 1989 and 1990; and

(B) shall include in that contract a priced option for the second sector of such system.

(2) The total value of the ceiling price of that contract for the first and second sectors of that system may not exceed $530,000,000.

(3) The contract entered into pursuant to paragraph (1) shall provide for all of the prime-mission equipment, software, construction, site activation activities, and required system capabilities for that system.

(c) Report by the Secretary of Defense.—No funds may be obligated for the Alaskan System referred to in subsection (b) until the Secretary of Defense submits to the congressional defense committees a report on the results of development test and evaluation of the East Coast System, including the results of integrated three-sector tests.

(d) Report by Director of OT&E.—The Director of Operational Test and Evaluation of the Department of Defense shall submit to the congressional defense committees a report certifying whether the test results of the integrated initial operational evaluation conducted with the three East Coast System sectors of the OTH-B radar system demonstrate that the East Coast System sectors meet all contract requirements and performance specifications relevant to operational test and evaluation, including any specifications for the system relating to small target detection capability. The report shall be submitted not later than September 1, 1990.

Communications and telecommunications.

SEC. 165. MILSTAR PROGRAM

(a) Information To Be Submitted to Congress.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees the following with respect to the Military Satellite and Terminal Relay (MILSTAR) system:

Reports.

(1) A Selected Acquisition Report on the total program.

(2) A comprehensive master plan for the MILSTAR program setting forth—

(A) the MILSTAR program requirements;

(B) the Department of Defense acquisition strategy for the program; and

(C) Department of Defense plans relating to program execution, program schedule, program management, and program architecture.

(3) An analysis of the feasibility of establishing a cost sharing plan among all potential users of the MILSTAR system.

(b) Limitation on Proceeding with Program.—(1) Funds appropriated or otherwise available to the Department of Defense may not be obligated for the MILSTAR program after April 1, 1990, unless the Secretary of Defense certifies to the congressional defense committees that the Department of Defense has complied with all conditions for the MILSTAR program specified in the classified annex to the joint statement of managers accompanying the conference report on the bill H.R. 2461 of the Hundred First Congress.

(2) Until the congressional defense committees receive all of the matters referred to in subsection (a), the Secretary of Defense may not obligate more than 75 percent of the funds appropriated pursuant to this Act for the MILSTAR program (other than for satellite communications ship terminals, satellite communications shore terminals, and extremely high frequency satellite communications).

SEC. 166. LIMITATION ON FUNDS FOR PROCUREMENT OF F-16 AIRCRAFT PENDING APPROVAL OF CERTAIN PLANS RESPECTING AIR-LAND FIRE SUPPORT FOR GROUND COMBAT FORCES

Reports.

(a) LIMITATION ON EXPENDITURES FOR F-16 AIRCRAFT.—If by April 1, 1990, the Secretary of Defense does not submit to the congresssional defense committees a report in writing containing a certification described in subsection (b), then after that date funds appropriated pursuant to this Act may not be expended for the procurement of F-16 aircraft until such a report is submitted to those committees.

(b) CERTIFICATION.—A certification referred to in subsection (a) is a certification by the Secretary of Defense of both of the following:

(1) That the Director of Operational Test and Evaluation of the Department of Defense—

(A) has approved a test plan for the evaluation of systems for providing air-land fire support for ground combat forces systems that is sufficiently flexible to allow for evaluation of any current system and any feasible future system for such purpose; and

(B) has approved a test plan for the evaluation of both the upgrade program proposed for the F-16 aircraft and the upgrade program proposed for the A-10 aircraft for close air support (including night time operations).

California.

(2) That any fixed-wing aircraft operated after July 1, 1990, at the National Training Center at Fort Irwin, California, will be fully integrated into the range instrumentation system to the same extent as attack helicopters.

PART H—CHEMICAL MUNITIONS

SEC. 171. RESTRICTION ON OBLIGATION OF FUNDS FOR PROCUREMENT OF BINARY CHEMICAL MUNITIONS

(a) 155-MILLIMETER BINARY CHEMICAL MUNITIONS.—None of the funds appropriated or otherwise made available for fiscal year 1990 for procurement of ammunition for the Army may be used for production of 155-millimeter binary chemical munition M687 projectiles until—

(1) the Secretary of the Army submits to the congressional defense committees a certification described in subsection (b); and

(2) a period of two weeks elapses after the date on which such certification is received.

(b) REQUIRED CERTIFICATION.—A certification by the Secretary of the Army under subsection (a) must state—

(1) that, based on deliveries of M20 plastic, M20 steel, and M21 components of the M687 projectile accepted by the Government from the incumbent contractor—

(A) the incumbent contractor has demonstrated monthly delivery rates of those components sufficient to eliminate before October 1, 1990, the production backlog of all those components for the M687 rounds authorized for production for fiscal years 1986, 1987, and 1988;

(B) the components and rounds for which delivery has been accepted conform to the contract specifications at the time that the Government entered into the contract; and

(C) the incumbent contractor has sustained those monthly delivery rates for such components for a period of not less than three consecutive months; and

Arkansas.

(2) that the new production lines at Pine Bluff Arsenal, Arkansas, for the production of chemicals for the M687 projectile have been proven out and the Secretary of the Army has formally accepted the facility housing those production lines.

(c) MONTHLY GAO REPORTS.—Not later than February 1, 1990, and not later than the first day of each month thereafter, the Comptroller General of the United States shall submit to the congressional defense committees a report on the previous month's production rate for the M20 plastic, M20 steel, and M21 components of the M687 projectile and on the status of the production backlog for fiscal years 1986, 1987, and 1988 for those components. The Comptroller General shall continue submitting such reports until he certifies to those committees either that the production backlog for those components has been eliminated or that production of the components has been terminated.

Reports.

(d) FINAL GAO CERTIFICATION.—Not later than two weeks after a certification is submitted under subsection (a), the Comptroller General of the United States shall submit to the congressional defense committees a report containing the Comptroller General's assessment of whether the monthly delivery rates referred to in subsection (b)(1) demonstrate that there are reasonable grounds to believe that the incumbent contractor will continue to deliver at those monthly rates in order to eliminate the backlog of deliveries by October 1, 1990.

(e) EXCEPTION FOR CERTAIN LONG-LEAD MATERIALS.—The limitation in subsection (a) shall not apply with respect to the obligation of funds (not in excess of $2,000,000) for long-term lead materials to support procurement of plastics for cannister production for the M687 projectile.

SEC. 172. CHEMICAL MUNITIONS EUROPEAN RETROGRADE PROGRAM

(a) LIMITATIONS ON RETROGRADE PROGRAM.—The Secretary of Defense may not obligate any funds appropriated for fiscal year 1990 for the purpose of carrying out the chemical munitions European retrograde program involving the withdrawal from Europe of chemical munitions until each of the following occurs:

(1) The Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a certification—

(A) that an adequate United States binary chemical munitions stockpile will exist before any withdrawal of the existing stockpile from its present location in Europe is carried out; and

(B) that the plan for such retrograde program is based on—

(i) minimum technical risk;

(ii) minimum operational risk; and

(iii) maximum safety to the public.

(2) The Secretary submits to those committees a revised concept plan for such retrograde program that includes a description of—

(A) the full budgetary effect of the retrograde program; and

(B) the potential effect of the retrograde program on the chemical demilitarization program.

(b) LIMITATION ON TRANSFER OF FUNDS.—The Secretary of Defense may not transfer any funds from the chemical demilitarization emergency response program for the retrograde program referred to in subsection (a).

SEC. 173. CHEMICAL DEMILITARIZATION CRYOFRACTURE PROGRAM

Utah.

(a) PROGRAM.—The Secretary of Defense, to the extent funds are available for the purpose, shall proceed as expeditiously as possible with the project to develop an operational cryofracture facility at the Tooele Army Depot, Utah.

(b) USE OF FISCAL YEAR 1989 FUNDS.—Of the amount authorized and appropriated for fiscal year 1989 for the chemical demilitarization program, $16,300,000 shall be obligated immediately for continued research and development testing of the cryofracture program.

Science and technology.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

(a) FISCAL YEAR 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,666,210,000.

(2) For the Navy, $9,901,897,000.

(3) For the Air Force, $13,938,679,000.

(4) For the Defense Agencies, $8,436,986,000, of which—

(A) $211,200,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $67,085,000 is authorized for the Director of Operational Test and Evaluation.

(b) FISCAL YEAR 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,791,042,000.

(2) For the Navy, $8,414,683,000.

(3) For the Air Force, $11,305,240,000.

(4) For the Defense Agencies, $4,264,161,000, of which—

(A) $150,734,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $25,834,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNTS FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT FOR FISCAL YEARS 1990 AND 1991

(a) FISCAL YEAR 1990.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal year 1990, $3,510,196,000 shall be available for basic research and exploratory development projects.

(b) FISCAL YEAR 1991.—Of the amounts appropriated pursuant to section 201 for fiscal year 1991, $3,770,000,000, shall be available for basic research and exploratory development projects.

(c) Basic Research and Exploratory Development Defined.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. AMOUNTS FOR IMPROVED INFANTRY EQUIPMENT

Of the amounts authorized to be appropriated pursuant to section 201 for fiscal year 1990, amounts shall be available to increase the effectiveness of small infantry units through the development of improved weapons and equipment as follows:

For the Army, $18,000,000.
For the Marine Corps, $12,000,000.

Part B—Program Requirements, Restrictions, and Limitations

SEC. 211. BALANCED TECHNOLOGY INITIATIVE

(a) Amounts Authorized.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal year 1990, $238,082,000 shall be available for research and development under the Balanced Technology Initiative program.

(b) Determination of Source of Funds.—The Secretary of Defense shall determine the amount of funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 for fiscal year 1990 that are to be allocated for the Balanced Technology Initiative.

(c) Prohibition Regarding Undistributed Reductions.—No portion of any undistributed reduction (under this Act or any other Act) may be applied against the funds specified in subsection (a) or against any funds made available for the Balanced Technology Initiative for fiscal year 1990 that are in addition to the amount specified in subsection (a).

(d) Prohibition on Use of Funds for SDI.—None of the funds made available for the Balanced Technology Initiative by subsection (a) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(e) Annual Report.—Not later than March 15 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the Balanced Technology Initiative and related matters. Each such report shall include the following:

(1) A current assessment of the extent to which advanced technologies can be used to exploit potential vulnerabilities of hostile threats to the national security of the United States.

(2) Identification of each program, project, and activity being pursued under the Balanced Technology Initiative and, with respect to each such program, project, and activity, the amount made available pursuant to this section and the source of such amount.

(3) For each program, project, and activity for which funds are made available pursuant to this section, a five-year funding plan that (A) provides for the allocation of sufficient resources to maintain adequate progress in research and development under such program, project, or activity, and (B) specifies the major programmatic and technical milestones and the schedule for achieving those milestones.

(4) The status of each program, project, and activity being pursued under the Balanced Technology Initiative.

(5) Identification of other on-going or potential research and development programs, projects, and activities not currently provided for under this section that should be considered for inclusion under the Balanced Technology Initiative in order to improve conventional defense capabilities.

(6) Identification of the most critical technologies for the successful development of existing or potential Balanced Technology Initiative programs, projects, and activities and an assessment of the current status of those technologies.

SEC. 212. INTEGRATED ELECTRIC DRIVE PROGRAM

(a) INTEGRATED ELECTRIC DRIVE PROGRAM.—The Secretary of the Navy is authorized to establish an Integrated Electric Drive program by merging the Ship Propulsion System program and the Shipboard System Component program with the Electric Drive program for the purpose of providing Integrated Electric Drive propulsion in the DDG–51 guided missile destroyer program.

(b) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $36,064,000 shall be available for the Integrated Electric Drive program.

SEC. 213. FAST SEALIFT TECHNOLOGY DEVELOPMENT PROGRAM

(a) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Fast Sealift Technology Development program for the purposes of completing, within 24 months after the date of the enactment of this Act, the technology development program described in the January 1989 report of the Secretary to Congress entitled "Fast Sealift Program Technology Assessment Report".

(b) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $15,000,000 shall be available for the Fast Sealift Technology Development program.

SEC. 214. TACTICAL OCEANOGRAPHY PROGRAM

(a) NEW PROGRAM.—The Secretary of the Navy is authorized to establish a Tactical Oceanography program to accelerate uses of scientific measurement and data collection devices and processes for the purpose of rapid tactical applications.

(b) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201 for the Navy for fiscal year 1990, $3,000,000 shall be available for the Tactical Oceanography program.

SEC. 215. GRANT FOR SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

Of the amount authorized to be appropriated pursuant to section 201(a) for fiscal year 1990 for Defense Agencies, $100,000,000 shall be available to make grants under section 272 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 15 U.S.C. 4602).

SEC. 216. ARMY HEAVY FORCE MODERNIZATION PROGRAM

(a) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201 for the Army for fiscal year 1990, $58,000,000 shall be available to the Secretary of the Army for competitive development of Advanced Technology Transition Demonstrators (ATTDs) for a common chassis for the Heavy Force Modernization program of the Army.

(b) LIMITATION ON USE OF FUNDING.—No funds may be obligated for such competitive development until—

(1) the Milestone I decision to proceed with demonstration and validation for the Heavy Force Modernization program is made by the appropriate official of the Department of Defense (upon consideration of the recommendation of the Defense Acquisition Board for that program) and such decision includes proceeding with development of Advanced Technology Transition Demonstrators for the common chassis for that program; and

Reports.

(2) after such decision, the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report described in subsection (c).

(c) REPORT.—The report referred to in subsection (b)(2) is a report by the Secretary of Defense containing the following:

(1) A description of the decisions referred to in subsection (b)(1), including a description of the demonstration and validation program approved.

(2) An updated Interagency Intelligence Memorandum providing current estimates (prepared within the 12 months preceding the date of the report) for production, and for operational capabilities, of future tanks of the Soviet Union.

(3) Detailed cost estimates and schedules for research, development, test, and evaluation, and for procurement, for all programs expected to use the common chassis to be selected pursuant to the competitive development under subsection (a) and explanations for the order in which those programs are to proceed through research, development, test, and evaluation and procurement.

(4) A description of the criteria to be used by the Secretary of Defense in determining whether—

(A) to proceed with a new tank program (for replacement of the M1 tank) using the common chassis to be selected pursuant to the competitive development under subsection (a); or

(B) to produce an M1A3 tank.

(5) The results of the review conducted under subsection (d).

(d) REVIEW OF ENGINE ACQUISITION PLAN.—(1) The Secretary of Defense, acting through an appropriate official of the Office of the Secretary of Defense designated by the Secretary, shall conduct a detailed review of the acquisition plan of the Department of the Army for the engine to be acquired for the common chassis to be selected pursuant to the competitive development under subsection (a).

(2) The review of such plan shall include a review of—

(A) the Transverse Mounted Engine Propulsion System;

(B) the Advanced Integrated Propulsion System; and

(C) derivatives of commercially developed engine systems.

(3) The review should determine—

(A) whether the schedule for development of the Advanced Technology Transition Demonstrator for the common chassis is consistent with the availability of engines; and

(B) whether such acquisition plan provides for the maximum competition between all alternatives.

SEC. 217. JOINT RESEARCH PROJECT ON MAGNETOENCEPHALOGRAPHY (MEG) AND NEUROMAGNETISM

Of the amounts appropriated pursuant to section 201 for fiscal year 1990, $250,000 may be used for the joint research project of the Department of the Army and the Department of Energy on magnetoencephalography (MEG) and neuromagnetism.

SEC. 218. V-22 OSPREY AIRCRAFT PROGRAM

Of the amount appropriated pursuant to section 201(a) or otherwise made available to the Navy for fiscal year 1990, not more than $255,000,000 may be obligated for research, development, test, and evaluation in connection with the V-22 aircraft program.

SEC. 219. BIODEGRADABLE MATERIALS RESEARCH

Of the amount appropriated pursuant to section 201 for the Army for fiscal year 1990, not more than $100,000 may be obligated for the purpose of continuing the research into the potential use of biodegradable materials in ration packaging designs. The Army Natick Research, Development, and Engineering Center shall be the responsible agency for such research.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1990

(a) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 201 for fiscal year 1990 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1990, not more than $3,573,202,000 may be obligated for the Strategic Defense Initiative.

(b) MANAGEMENT HEADQUARTERS SUPPORT.—Of the amount available for the Strategic Defense Initiative pursuant to subsection (a), not more than $23,000,000 shall be available for Management Headquarters Support.

(c) FUNDS FOR SUPPORT OF MEDICAL FREE ELECTRON LASER PROGRAM.—Of the amounts appropriated for fiscal years 1990 and 1991 that are available for the Strategic Defense Initiative, not more than $20,000,000 of that amount for each such year may be used to support the medical free electron laser program.

SEC. 222. REPORT ON ALLOCATION OF FISCAL YEAR 1990 SDI FUNDING

(a) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1990. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of legislation appropriating funds for the Strategic Defense Initiative for fiscal year 1990.

SEC. 223. LIMITATION ON DEVELOPMENT AND TESTING OF ANTIBALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1990, or any fiscal year before 1990, shall be subject to the limitations prescribed in paragraph (2).

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any antiballistic missile system or component, except for development and testing consistent with the development and testing described in the 1989 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the 1989 SDIO Report.

(3) The limitation in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1990 if the transfer is made in accordance with section 1601 of this Act.

(b) DEFINITION.—As used in this section, the term "1989 SDIO Report" means the report entitled, "1989 Report to Congress on the Strategic Defense Initiative," dated January 19, 1989, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 231 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1059; 10 U.S.C. 2431 note).

SEC. 224. REQUIREMENT FOR ANNUAL REPORT ON SDI PROGRAMS

0 USC 2431
ote.

(a) REPORT REQUIRED.—Not later than March 15 of each year, the Secretary of Defense shall transmit to Congress a report (in both unclassified and classified form) on the programs and projects that constitute the Strategic Defense Initiative and on any other program or project relating to defense against ballistic missiles.

(b) CONTENT OF REPORT.—Each such report shall include the following:

(1) A statement of the basic strategy for research and development being pursued by the Department of Defense under the Strategic Defense Initiative (SDI), including the relative priority being given, respectively, to the development of near-term deployment options and research on longer-term technological approaches.

(2) A detailed description of each program or project which is included in the Strategic Defense Initiative or which otherwise relates to defense against strategic ballistic missiles, including a technical evaluation of each such program or project and an assessment as to when each can be brought to the stage of full-scale engineering development (assuming funding as requested or programmed).

(3) A clear definition of the objectives of each planned deployment phase of the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) An explanation of the relationship between each such phase and each program and project associated with the proposed architecture for that phase.

(5) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(6) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the 1972 Anti-Ballistic Missile Treaty.

(7) A review of possible countermeasures of the Soviet Union to specific SDI programs, an estimate of the time and cost required for the Soviet Union to develop each such countermeasure, and an evaluation of the adequacy of the SDI programs described in the report to respond to such countermeasures.

(8) Details regarding funding of programs and projects for the Strategic Defense Initiative (including the amounts authorized, appropriated, and made available for obligation after undistributed reductions or other offsetting reductions were carried out), as follows:

(A) The level of requested and appropriated funding provided for the current fiscal year for each program and project in the Strategic Defense Initiative budgetary presentation materials provided to Congress.

(B) The aggregate amount of funding provided for previous fiscal years (including the current fiscal year) for each such program and project.

(C) The amount requested to be appropriated for each such program and project for the next fiscal year.

(D) The amount programmed to be requested for each such program and project for the following fiscal year.

(E) The amount required to reach the next significant milestone for each demonstration program and each major technology program.

(9) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include the following:

(A) Defending elements of the Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate shorter-range ballistic missiles of the Soviet Union armed with conventional, chemical, or nuclear warheads.

(B) Defending against an accidental launch of strategic ballistic missiles against the United States.

(C) Defending against a limited but militarily effective attack by the Soviet Union aimed at disrupting the National Command Authority or other valuable military assets.

(D) Providing sufficient warning and tracking information to defend or effectively evade possible attacks by the Soviet Union against military satellites, including those in high orbits.

(E) Providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of United States military forces in defense against possible conventional or strategic attacks by the Soviet Union.

(F) Providing protection of the United States population from a nuclear attack by the Soviet Union.

(G) Any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(10) For each of the near-term military missions listed in paragraph (9), the report shall include the following:

(A) A list of specific program elements of the Strategic Defense Initiative that are pertinent to such mission.

(B) The Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish such missions.

(C) The Secretary's estimate of the level of funding necessary for each program to reach those initial operating capability dates.

(D) The Secretary's estimate of the survivability and cost effectiveness at the margin of such architectures or systems against current and projected threats from the Soviet Union.

PART D—STRATEGIC PROGRAMS

SEC. 231. FUNDING AND LIMITATIONS FOR ICBM MODERNIZATION PROGRAM

(a) OVERALL OBLIGATIONAL LIMITATION.—Of the amounts appropriated for the Department of Defense for fiscal year 1990 pursuant to this Act, not more than $1,131,700,000 may be obligated for the activities described in subsection (b) for the intercontinental ballistic missile (ICBM) modernization program.

Railroads. (b) COVERED ICBM MODERNIZATION ACTIVITIES.—The activities referred to in subsection (a) are the following:

(1) Research, development, test, and evaluation in connection with the MX Rail Garrison program and the Small ICBM program.

(2) Advance procurement of long-lead items for the MX Rail Garrison program.

(3) Advance procurement of initial spare parts for the MX Rail Garrison program.

(4) Procurement of operational Mark 21 reentry systems.

Wyoming. (5) Military construction at F. E. Warren Air Force Base, Wyoming, in connection with the MX Rail Garrison program.

(c) MAXIMUM AMOUNTS THAT MAY BE OBLIGATED FOR MODERNIZATION ACTIVITIES.—The maximum amount that may be obligated for each activity described in subsection (b) from amounts appropriated for the Department of Defense for fiscal year 1990 pursuant to this Act is as follows:

(1) For the activity described in subsection (b)(1), a total of $874,244,000.

(2) For the activity described in subsection (b)(2), $163,607,000.

(3) For the activity described in subsection (b)(3), $58,999,000.

(4) For the activity described in subsection (b)(4), $80,000,000.

(5) For the activity described in subsection (b)(5), $104,850,000.

(d) TRANSFER AUTHORITY; LIMITATION.—(1) The Secretary of Defense may transfer funds made available for fiscal year 1990 for any activity referred to in subsection (b) to any other activity referred to in that subsection, except that in no case may the total amount obligated from fiscal year 1990 defense funds for that activity exceed the amount specified for that activity in subsection (c).

(2) An amount transferred pursuant to this subsection may be used only in connection with the activity to which transferred and shall be merged with other funds made available for that activity for fiscal year 1990.

(3) An amount transferred pursuant to this subsection shall not be counted against the maximum amount authorized to be transferred pursuant to this Act under section 1601(a).

(e) USE OF UNOBLIGATED FY 1989 FUNDS.—The Secretary of the Air Force shall use $100,000,000 of amounts appropriated for research, development, test, and evaluation for the Air Force for fiscal year 1989 that remain available for obligation to carry out research, development, test, and evaluation in connection with the Small ICBM program.

(f) REPORT TO CONGRESS.—Not later than 10 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report specifying the amounts allocated to each activity referred to in subsection (b) and an explanation of any transfer of funds made pursuant to subsection (d). In the case of any such transfer of funds, the report shall include an identification of the activity or activities from which the funds are transferred and the activity or activities to which the funds are transferred.

SEC. 232. FUNDING FOR SECURITY IMPROVEMENTS AT THE KWAJALEIN TEST RANGE

The Secretary of Defense shall transfer to the Army $7,500,000 from funds available for research, development, test and evaluation for the Armed Forces for fiscal year 1990. Funds so transferred shall be available for the sole purpose of funding highest priority security improvements at the Kwajalein Test Range. Funds made available for such purpose shall be in addition to any funds otherwise made available for the United States Army Kwajalein Atoll Command.

SEC. 233. TITAN IV WEST COAST LAUNCH PAD

(a) PROHIBITION ON OBLIGATION OF FUNDS FOR SLC-7 FACILITY.—Funds appropriated or otherwise made available for the Air Force for fiscal year 1990 may not be obligated or expended in connection with the launch facility at Vandenberg Air Force Base, California, identified as the SLC-7 Launch Facility.

(b) LIMITATION ON OBLIGATION OF FUNDS FOR SLC-6 FACILITY.—(1) Of the funds appropriated for the Air Force for research, development, test, and evaluation for fiscal year 1990, not more than $31,200,000 shall be available for conversion of the launch facility at Vandenberg Air Force Base, California, identified as the SLC-6 Launch Facility, for launching Titan IV expendable launch vehicles.

(2) Funds appropriated or otherwise made available for the Air Force for fiscal year 1990 may not be used for a second West Coast launch capability for Titan IV expendable launch vehicles except for the conversion of the SLC-6 launch facility to such a capability.

PART E—CHEMICAL AND BIOLOGICAL WARFARE PROGRAMS

SEC. 241. PROGRAM FOR MONITORING COMPLIANCE WITH POSSIBLE CHEMICAL WEAPONS CONVENTION

Of the amount authorized to be appropriated pursuant to section 201 for the Defense Agencies for fiscal year 1990, $15,000,000 shall be available for use only by the Office of the Secretary of Defense to conduct a program to develop and demonstrate compliance monitoring capabilities in support of efforts by the United States in the Conference on Disarmament at Geneva to achieve a verifiable convention on the prohibition of chemical weapons.

SEC. 242. REPORT ON BIOLOGICAL DEFENSE RESEARCH PROGRAM

(a) Report.—The Secretary of Defense shall submit to the Congress a report on research, development, test, and evaluation conducted by the Department of Defense during fiscal year 1989 under the Biological Defense Research Program. The report shall be submitted in both classified and unclassified form in conjunction with the submission of the budget to Congress for fiscal 1991.

(b) Content of Report.—The report shall address the following matters:

(1) Each biological or infectious agent used in, or the subject of, research, development, test, and evaluation conducted under that program during that fiscal year and not previously listed in the Center for Disease Control Guidelines.

(2) The biological properties of each such agent.

(3) With respect to each agent, the location at which research, development, test, and evaluation under that program involving that agent is conducted and the amount of funds expended during that fiscal year under the program at that location.

(4) The biosafety level used in conducting that research, development, test, and evaluation.

(c) Types of Research Affected.—Subsection (a) applies to all research, development, test, and evaluation conducted under the Biological Defense Research Program by the Department of Defense.

(d) Definition.—In this section the term "biosafety level" means the applicable biosafety level described in the publication entitled "Biosafety in Microbiological and Biomedical Laboratories" (CDC-NIH, 1984).

SEC. 243. RESTORATION OF CERTAIN REPORTING REQUIREMENTS RELATING TO CHEMICAL AND BIOLOGICAL WARFARE AGENTS

(a) Specific Reports.—Section 602 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (100 Stat. 1066; 10 U.S.C. 111 note) is amended—

(1) by striking out subsections (g) and (h) and inserting in lieu thereof the following:

"(g) Public Law 91-121.—The exception provided in subsection (d)(3) applies to the following annual report and notifications relating to chemical or biological warfare agents:

"(1) The annual report required by subsection (a) of section 409 of Public Law 91-121 (50 U.S.C. 1511).

"(2) The notifications required by subsections (b)(4) and (c)(1) of such section (50 U.S.C. 1512(4), 1513(1)).

"(h) Public Law 91-441.—The exception provided in subsection (d)(3) applies to the following reports:

"(1) The annual report required by section 203(c) of Public Law 91-141 (10 U.S.C. 2358 note), relating to independent research and development and bid and proposal programs.

"(2) Reports required by section 506(d) of such public law (50 U.S.C. 1518), relating to the disposal of chemical or biological warfare agents."; and

(2) by adding at the end the following new subsection:

"(v) PUBLIC LAW 95-79.—The exception provided in subsection (d)(3) applies to the notifications required by section 808 of Public Law 95-79 (50 U.S.C. 1520), relating to chemical or biological warfare agents.".

(b) CONFORMING AMENDMENT.—Subsection (d)(3) of such section is amended by striking out "(u)" and inserting in lieu thereof "(v)".

PART F—OTHER MATTERS

SEC. 251. ADVANCED RESEARCH PROJECTS

(a) AUTHORITY FOR DARPA COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS.—(1) Chapter 139 of title 10, United States Code, as amended by section 242(a), is further amended by adding at the end the following new section:

"§ 2371. Advanced research projects: cooperative agreements and other transactions

"(a) The Secretary of Defense, in carrying out advanced research projects through the Defense Advanced Research Projects Agency, may enter into cooperative agreements and other transactions with any person, any agency or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity.

"(b)(1) Cooperative agreements and other transactions entered into by the Secretary under subsection (a) may include a clause that requires a person or other entity to make payments to the Department of Defense (or any other department or agency of the Federal Government) as a condition for receiving support under the agreement or other transaction.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary of Defense, to the account established under subsection (e). Amounts so credited shall be merged with other funds in the account and shall be available for the same purposes and the same period for which other funds in such account are available.

"(c) The authority provided under subsection (a) may be exercised without regard to section 3324 of title 31.

"(d) The Secretary shall ensure that—

"(1) to the maximum extent practicable, a cooperative agreement or other transaction under this section does not provide for research that duplicates research being conducted under existing programs carried out by the Department of Defense;

"(2) to the extent the Secretary determines practicable, the funds provided by the Government under the cooperative agreement or other transaction do not exceed the total amount provided by other parties to the cooperative agreement or other transaction; and

"(3) the authority under this section is used only when the use of standard contracts or grants is not feasible or appropriate.

"(e) There is hereby established on the books of the Treasury an account for support of advanced research projects provided for in cooperative agreements and other transactions entered into under subsection (a). Funds in such account shall be available for the payment of such support.

Reports.

"(f) Not later than 60 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committees of Armed Services of the Senate and House of Representatives a report on all cooperative agreements and other transactions (other than contracts and grants) entered into under this section during such fiscal year. The report shall contain, with respect to each such cooperative agreement and transaction, the following:

"(1) A general description of the cooperative agreement or other transaction (as the case may be), including the technologies for which advanced research is provided for under such agreement or transaction.

"(2) The potential military and, if any, commercial utility of such technologies.

"(3) The reasons for not using a contract or grant to provide support for such advanced research.

"(4) The amount of the payments, if any, referred to in subsection (b) that were received by the Federal Government in connection with such cooperative agreement or other transaction during the fiscal year covered by the report.

"(5) The amount of the payments reported under paragraph (4), if any, that were credited to the account established under subsection (e).

Termination date.

"(g) The authority of the Secretary to enter into cooperative agreements and other transactions under this section expires at the close of September 30, 1991.".

(2) The table of sections at the beginning of such chapter, as amended by section 242(a), is further amended by adding at the end the following new item:

"2371. Advanced research projects: cooperative agreements and other transactions.".

(b) FUNDING.—Of the amounts appropriated pursuant to section 201 for the Defense Agencies, not more than $25,000,000 of the funds appropriated for fiscal year 1990 and not more than $25,000,000 of the funds appropriated for fiscal year 1991 may be available for the support, through the Defense Advanced Research Projects Agency, of advanced research provided for in cooperative agreements and other transactions authorized by section 2371 of title 10, United States Code (as added by subsection (a)). That amount shall be credited to the account established under subsection (e) of such section.

Grants.

SEC. 252. CLARIFICATION OF REQUIREMENT FOR COMPETITION IN AWARD OF RESEARCH AND DEVELOPMENT CONTRACTS AND CONSTRUCTION CONTRACTS TO COLLEGES AND UNIVERSITIES

(a) COMPETITION REQUIREMENT.—Subsection (a) of section 2361 of title 10, United States Code, is amended by striking out "unless the grant" and all that follows through the end of the subsection and inserting in lieu thereof "unless—

"(1) in the case of a grant, the grant is made using competitive procedures; and

"(2) in the case of a contract, the contract is awarded in accordance with section 2304 of this title (other than pursuant to subsection (c)(5) of that section).".

(b) RESTRICTIONS WITH RESPECT TO SUPERSEDING LEGISLATION.—(1) Subsection (b) of such section is amended to read as follows:

"(b)(1) A provision of law may not be construed as modifying or superseding the provisions of subsection (a), or as requiring funds to be made available by the Secretary of Defense to a particular college or university by grant or contract, unless that provision of law—

"(A) specifically refers to this section;

"(B) specifically states that such provision of law modifies or supersedes the provisions of this section; and

"(C) specifically identifies the particular college or university involved and states that the grant to be made or the contract to be awarded, as the case may be, pursuant to such provision of law is being made or awarded in contravention of subsection (a).

"(2) A grant may not be made, or a contract awarded, pursuant to a provision of law that authorizes or requires the making of the grant, or the awarding of the contract, in a manner that is inconsisent with subsection (a) until—

"(A) the Secretary of Defense submits to Congress a notice in writing of the intent to make the grant or award the contract; and

"(B) a period of 180 days has elapsed after the date on which the notice is received by Congress.".

Effective date.
10 USC 2361 note.

(2) Subsection (b) of section 2361 of title 10, United States Code, as amended by paragraph (1), applies with respect to any provision of law enacted after September 30, 1989.

(c) SEMIANNUAL REPORT.—(1) Such section is further amended by adding at the end the following new subsection:

"(c)(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a semiannual report on the use of competitive procedures for the award of research and development contracts, and the award of construction contracts, to colleges and universities. Each such report shall include—

"(A) a list of each college and university that, during the period covered by the report, received more than $1,000,000 in such contracts through the use of procedures other than competitive procedures; and

"(B) the cumulative amount of such contracts received during that period by each such college and university.

"(2) The reports under paragraph (1) shall cover the six-month periods ending on June 30 and December 31 of each year. Each such report shall be submitted within 30 days after the end of the period covered by the report.

"(3) A report is not required under paragraph (1) for any period beginning after December 31, 1993.".

10 USC 2361 note.

(2) The first report under subsection (c) of section 2361 of title 10, United States Code, as added by paragraph (1), shall cover the last six months of 1989 and shall be submitted not later than February 1, 1990.

SEC. 253. EXTENSION OF DEADLINE FOR SELECTION OF HEAVY TRUCK SYSTEM CONFIGURED WITH PALLETIZED LOADING SYSTEM

Section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1068) is amended by striking out "24 months after the enactment of this Act" in the first sentence and inserting in lieu thereof "June 4, 1990".

SEC. 254. TESTING OF INFANTRY ANTI-TANK WEAPON

(a) Evaluation of Infantry Anti-Tank Weapon.—(1) The Secretary of the Army shall conduct a side-by-side test and evaluation of the Bofors Bill weapon system, the Milan weapon system, and the Dragon II weapon system. On the basis of the performance of those systems in those tests, the Secretary of the Army shall select the superior weapon system, giving full consideration to cost effectiveness.

(2) Such test and evaluation shall be conducted, and such selection shall be made, not later than six months after the date of the enactment of this Act.

(3) The tests and criteria used for such evaluation shall be identical to those used for tests under section 114 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1931) and the associated language on page 303 of the joint explanatory statement of managers for the bill H.R. 4481 of the 100th Congress (House Report 100-989 of the 100th Congress).

(b) Funding of Tests.—The tests under subsection (a) shall be funded from—

(1) funds appropriated for fiscal year 1988 for evaluation of the Bofors Bill system and Milan system which remain unspent;

(2) funds appropriated for fiscal year 1989 for the terminated Dragon III program which remain unspent; and

(3) other fiscal year 1988 or 1989 funds available to the Secretary.

(c) Independent Assessments.—The Comptroller General of the United States and the Director of Operational Test and Evaluation of the Department of Defense shall each conduct an assessment of the operational tests and evaluations referred to in subsection (a). The Comptroller General and the Director shall each submit a report on such assessment to the Committees on Armed Services of the Senate and House of Representatives not later than two months after the end of the tests.

Reports.

SEC. 255. FUNDING FOR FACILITY FOR COLLABORATIVE RESEARCH AND TRAINING FOR MILITARY MEDICAL PERSONNEL; FUNDING FOR MICROELECTRONICS RESEARCH

(a) Funding.—(1) Of the amounts appropriated pursuant to section 201 for fiscal year 1990, $18,000,000 may be used by the Secretary of Defense as a contribution toward the construction of a facility as part of a complex to enable collaborative research and training for Department of Defense military medical personnel in the following fields:

(A) Trauma care.

(B) Head, neck, and spinal injury.

(C) Paralysis.

(D) Neurosciences and neurodegenerative diseases.

(2) Such a contribution may be made only for a facility that will—

(A) support education, training, treatment, and rehabilitative services related to the fields described in paragraph (1); and

(B) support neuroscience research with relevance for the medical mission of the Department of Defense.

(3) Such a contribution may be made only for a facility to be located at an institutional setting that—

(A) has received national recognition for its work in the fields listed in paragraph (1); and

(B) can best facilitate interagency collaborative research, education, and training activities.

(4) The amount of a contribution under paragraph (1) may not exceed 33 percent of the total cost of such complex.

(b) MICROELECTRONICS RESEARCH.—Of the funds authorized to be appropriated pursuant to section 201 for fiscal year 1990, not more than $15,000,000 may be made available for a program of research in advanced microelectronics, optoelectronics, and materials. None of such funds may be obligated before July 1, 1990. Any contract awarded under such program shall be awarded using competitive procedures to the maximum extent feasible.

SEC. 256. AVAILABILITY OF FUNDS TRANSFERRED TO NASA FOR NATIONAL AEROSPACE PLANE

Of amounts appropriated to the Department of Defense for fiscal year 1990 that are transferred to the National Aeronautics and Space Administration pursuant to law, not more than $225,000,000 may be used for the National Aerospace Plane program.

SEC. 257. REPEAL OF SPECIFICATION OF FUNDS FOR RANKINE ENGINE

Section 205(a)(3) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1047) is repealed.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $22,973,309,000.
(2) For the Navy, $23,926,751,000.
(3) For the Marine Corps, $1,657,800,000.
(4) For the Air Force, $21,909,296,000.
(5) For the Defense Agencies, $7,850,472,000.
(6) For the Army Reserve, $861,800,000.
(7) For the Naval Reserve, $894,800,000.
(8) For the Marine Corps Reserve, $77,400,000.
(9) For the Air Force Reserve, $978,500,000.
(10) For the Army National Guard, $1,867,100,000.
(11) For the Air National Guard, $1,981,900,000.
(12) For the National Board for the Promotion of Rifle Practice, $3,970,000.
(13) For the Defense Inspector General, $94,749,000.
(14) For the Court of Military Appeals, $4,000,000.
(15) For Environmental Restoration, Defense, $601,100,000.
(16) For Humanitarian Assistance, $13,000,000.
(17) For the Goodwill Games, as provided in section 305 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1949), $14,600,000.

(b) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $24,648,400,000.

(2) For the Navy, $25,262,700,000.

(3) For the Marine Corps, $1,771,300,000.

(4) For the Air Force, $23,344,300,000.

(5) For the Defense Agencies, $8,318,900,000.

(6) For the Army Reserve, $902,600,000.

(7) For the Naval Reserve, $949,900,000.

(8) For the Marine Corps Reserve, $79,400,000.

(9) For the Air Force Reserve, $1,015,400,000.

(10) For the Army National Guard, $1,896,300,000.

(11) For the Air National Guard, $2,104,600,000.

(12) For the National Board for the Promotion of Rifle Practice, $5,600,000.

(13) For the Defense Inspector General, $97,600,000.

(14) For the Court of Military Appeals, $4,200,000.

(15) For Environmental Restoration, Defense, $519,900,000

(16) For Humanitarian Assistance, $13,000,000.

(c) Special Authorization for Contingencies.—There is authorized to be appropriated for each of fiscal years 1990 and 1991, in addition to the amounts authorized to be appropriated in subsections (a) and (b), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by such subsections.

SEC. 302. WORKING CAPITAL FUNDS

(a) Authorization of Appropriations For Fiscal Year 1990.—Funds are hereby authorized to be appropriated for fiscal year 1990 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

(1) For the Navy Stock Fund, $40,500,000.

(2) For the Air Force Stock Fund, $126,100,000.

(3) For the Defense Stock Fund, $78,100,000.

(b) Authorization of Appropriations For Fiscal Year 1991.—Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

(1) For the Army Stock Fund, $141,500,000.

(2) For the Navy Stock Fund, $232,100,000.

(3) For the Air Force Stock Fund, $319,600,000.

(4) For the Defense Stock Fund, $156,300,000.

SEC. 303. DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT

(a) Authorization of Appropriations For Fiscal Year 1990.—There is authorized to be appropriated for fiscal year 1990 to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2631), $500,000,000.

(b) Authorization of Appropriations For Fiscal Year 1991.—There is authorized to be appropriated for fiscal year 1991 to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2631), $500,000,000.

SEC. 304. HUMANITARIAN ASSISTANCE

Refugees.
Afghanistan.
Thailand.
Cambodia.

(a) Purpose.—Funds appropriated pursuant to the authorizations in subsections (a)(16) and (b)(16) of section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the funds appropriated for each of fiscal years 1990 and 1991 pursuant to such subsections for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) Authority To Transfer Funds.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such subsections for each of fiscal years 1990 and 1991 for humanitarian assistance to provide for—

(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) Transportation Under Direction of the Secretary of State.—Transportation for humanitarian relief provided with funds appropriated pursuant to such subsections for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) Means of Transportation To Be Used.—Transportation for humanitarian relief provided with funds appropriated pursuant to such subsections for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) Availability of Funds.—Funds appropriated pursuant to such subsections for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) Reports to Congress.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance under the humanitarian relief laws specified in paragraph (4).

(2) A report required by paragraph (1) shall be submitted—

(A) not later than 60 days after the date of the enactment of this Act;

(B) not later than June 1, 1990; and

(C) not later than June 1 of each year thereafter until all funds available for humanitarian assistance under the humanitarian relief laws specified in paragraph (4) have been obligated.

(3) A report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(4) The humanitarian relief laws referred to in paragraphs (1), (2), and (3) are the following:

(A) This section.

(B) Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

(D) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948).

(5) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948), is amended by striking out subsection (f).

SEC. 305. ARMY AVIATION FLIGHT FACILITY AT JACKSON, TENNESSEE

(a) ESTABLISHMENT OF FACILITY.—The Secretary of the Army shall establish an Army aviation flight facility at McKellar Field in Jackson, Tennessee.

(b) AMOUNT AUTHORIZED FOR TRANSFER OF BRIGADE.—Of the amount appropriated pursuant to section 301 for fiscal year 1990 for operation and maintenance for the Army National Guard, $300,000 is authorized to be used to transfer the aviation section of the 30th Separate Armored Brigade of the Tennessee National Guard to the facility established pursuant to subsection (a).

SEC. 306. ASSISTANCE TO SCHOOLS TO BENEFIT CHILDREN OF MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

(a) ASSISTANCE AUTHORIZED.—Of the amounts appropriated for operation and maintenance for fiscal year 1990, the Secretary of Defense is authorized to use $10,000,000 for the purpose of providing, in consultation with the Secretary of Education, assistance to eligible local educational agencies that operate schools that include students who—

(1) are dependent children of members of the Armed Forces or of civilian employees of the Department of Defense; and

(2) while in attendance at such schools, reside on Federal property.

(b) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency described in subsection (a) is eligible for financial assistance under such subsection if the Secretary of Defense, in consultation with the Secretary of Education, determines that such agency is unable, without the addition of such assistance, to provide a level of education for such students equivalent to the minimum level of education available within the State in which such students reside (as determined by comparable school district data).

Reports.

(c) CRITERIA FOR ASSISTANCE.—Not later than December 31, 1989, the Secretary of Defense shall submit to the Committees on Armed

Services and Labor and Human Resources of the Senate and the Committees on Armed Services and Education and Labor of the House of Representatives a report describing the criteria and procedures the Secretary will use to select recipient agencies for assistance under subsection (a).

(d) REPORT ON IMPACT AID.—Not later than December 31, 1989, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to the Committee on Armed Services and the Committee on Labor and Human Resources of the Senate and the Committee on Armed Services and the Committee on Education and Labor of the House of Representatives a report on the feasibility and desirability—

(1) of transferring to the Department of Defense by October 1, 1991, impact aid responsibilities for schools impacted by Department of Defense activities; and

(2) of providing support services (including funds for facilities) to schools receiving impact aid as a result of the presence of dependent children of members of the Armed Forces or of civilian employees of the Department of Defense.

PART B—LIMITATIONS

SEC. 311. PROHIBITION ON PAYMENT OF SEVERANCE PAY TO FOREIGN NATIONALS IN THE EVENT OF CERTAIN BASE CLOSURES

(a) CERTAIN SEVERANCE PAY COSTS NOT ALLOWABLE COSTS WITH RESPECT TO SERVICE CONTRACTS PERFORMED OUTSIDE THE UNITED STATES.—(1) Subsection (e)(1) of section 2324 of title 10, United States Code, is amended—

(A) by redesignating subparagraph (N) as subparagraph (O); and

(B) by inserting after subparagraph (M) the following new subparagraph (N):

"(N) Costs of severance pay paid by the contractor to a foreign national employed by the contractor under a service contract performed in a foreign country if the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States military facility in that country at the request of the government of that country.".

(2) Subparagraph (N) of such subsection, as added by paragraph (1), shall not apply with respect to the termination of the employment of a foreign national employed under any covered contract (as defined in subsection (l) of such section) if such termination is the result of the closing of, or the curtailment of activities at, a United States military facility in a foreign country pursuant to an agreement entered into with the government of that country before the date of the enactment of this Act. 10 USC 2324 note.

(b) PROHIBITION ON PAYMENT OF SEVERANCE PAY TO FOREIGN NATIONALS EMPLOYED BY THE DEPARTMENT OF DEFENSE.—(1) Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1592. Prohibition on payment of severance pay to foreign nationals in the event of certain overseas base closures

"Funds available to the Department of Defense may not be used to pay severance pay to a foreign national employed by the Department of Defense under a contract performed in a foreign country if

the termination of the employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States military facility in that country at the request of the government of that country.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1592. Prohibition on payment of severance pay to foreign nationals in the event of certain overseas base closures.".

Effective date. 10 USC 1592 note.

(3)(A) Section 1592 of title 10, United States Code, as added by paragraph (1), shall take effect on the date of the enactment of this Act.

(B) Such section shall not apply with respect to the closing of, or the curtailment of activities at, a United States military facility in a foreign country pursuant to an agreement entered into with the government of that country before the date of the enactment of this Act.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) in the event a United States military facility located in a foreign country is closed (or activities at the facility are curtailed) at the request of the government of that country, such government should be responsible for the payment of severance pay to foreign nationals in the country whose employment by the United States or by a contractor under a contract with the United States is terminated as a result of the closure or curtailment; and

(2) in negotiating a status-of-forces agreement or other country-to-country agreement with the government of a foreign country, the President should endeavor to include in the agreement a provision that would require the government of that country to pay severance pay to foreign nationals in that country whose employment is terminated as a result of the closing of, or the curtailment of activities at, a United States military facility in that country, if the closing or curtailment is at the request of the government of that country.

SEC. 312. PROHIBITION ON JOINT USE OF THE MARINE CORPS AIR STATION AT EL TORO, CALIFORNIA, WITH CIVIL AVIATION

The Secretary of the Navy may not enter into any agreement that would provide for, or permit, civil aircraft to regularly use the Marine Corps Air Station at El Toro, California.

SEC. 313. CLARIFICATION OF PROHIBITION ON CERTAIN DEPOT MAINTENANCE WORKLOAD COMPETITIONS

Section 2466 of title 10, United States Code, is amended—

(1) by striking out "may not require" and inserting in lieu thereof "shall prohibit";

(2) by striking out "or" after "Secretary of the Army" and inserting in lieu thereof "and"; and

(3) by striking out "to carry out" and inserting in lieu thereof "from carrying out".

SEC. 314. REDUCTION IN THE NUMBER OF CIVILIAN PERSONNEL AUTHORIZED FOR DUTY IN EUROPE

(a) REDUCTION REQUIRED.—The number of civilian employees of the Department of Defense authorized for duty in Europe on the date of the enactment of this Act shall be reduced by a number equal to the number of remaining authorizations for employees of the department that—

(1) were related to intermediate-range nuclear forces on December 8, 1987; and

(2) are unnecessary as a result of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, signed on December 8, 1987 (commonly referred to as the "INF Treaty").

International agreements.

(b) DEADLINE FOR REDUCTION.—The reduction in the number of employees authorized for duty in Europe required by subsection (a) shall be completed not later than October 1, 1991.

SEC. 315. REPEAL OF LIMITATION ON THE USE OF OPERATION AND MAINTENANCE FUNDS TO PURCHASE INVESTMENT ITEMS

Section 303 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1073) is repealed.

PART C—MISCELLANEOUS PROGRAM CHANGES

SEC. 321. AUTHORIZATION TO REDUCE UNDER CERTAIN CIRCUMSTANCES THE RATES FOR MEALS SOLD AT A MILITARY DINING FACILITY

Section 1011(a) of title 37, United States Code, is amended—

(1) by striking out "or enlisted members" and all that follows through the period in the first sentence and inserting in lieu thereof "and enlisted members."; and

(2) by adding after the second sentence the following new sentence: "Notwithstanding the preceding sentence, if the Secretary determines that it is in the best interest of the United States, the Secretary may reduce a rate for meals established under this subsection by the amount of that rate attributable to operating expenses.".

SEC. 322. IMPROVED AND EXPEDITED DISPOSAL OF LOST, ABANDONED, OR UNCLAIMED PERSONAL PROPERTY IN THE CUSTODY OF THE ARMED FORCES

(a) IN GENERAL.—Subsection (a) of section 2575 of title 10, United States Code, is amended—

(1) by striking out "120 days" in the third sentence and inserting in lieu thereof "45 days";

(2) by striking out "$25 or more" and all that follows through "three months" in the fourth sentence and inserting in lieu thereof "more than $300, the Secretary may not dispose of the property until 45 days"; and

(3) by inserting after the second sentence the following new sentences: "The diligent effort to find the owner (or the heirs, next of kin, or legal representative of the owner) shall begin, to the maximum extent practicable, not later than seven days after the date on which the property comes into the custody or control of the Secretary. The period for which that effort is continued may not exceed 45 days.".

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking out "owner, his heirs or next of kin, or his legal representative" each place it appears and inserting in lieu

thereof "owner (or the heirs, next of kin, or legal representative of the owner)";

(2) in subsection (a)—

(A) by striking out "his department" and inserting in lieu thereof "the Secretary's department"; and

(B) by striking out "owner, his heirs or next of kin, or his legal representatives" and inserting in lieu thereof "owner (or heirs, next of kin, or legal representative of the owner)"; and

(3) in subsection (c), by striking out "he" and inserting in lieu thereof "that person".

10 USC 2575 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to property that comes into the custody or control of the Secretary of a military department or the Secretary of Transportation after the date of the enactment of this Act.

SEC. 323. PROCUREMENT OF LAUNDRY AND DRY CLEANING SERVICES FROM NAVY EXCHANGES

(a) IN GENERAL.—Chapter 143 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2423. Laundry and dry cleaning services: procurement from facilities operated by the Navy Resale and Services Support Office

"(a) AUTHORITY.—The Secretary of Defense may authorize an element of the Department of Defense to enter into a contract (through the use of procedures other than competitive procedures) with a laundry and dry cleaning facility operated by the Navy Resale and Services Support Office to procure laundry and dry cleaning services for the armed forces outside the United States.

"(b) APPLICATION.—Subsection (a) shall apply only with respect to a laundry and dry cleaning facility of the Navy Resale and Services Support Office that began operating before October 1, 1989.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2423. Laundry and dry cleaning services: procurement from facilities operated by the Navy Resale and Services Support Office.".

SEC. 324. PROCUREMENT OF SUPPLIES AND SERVICES FROM MILITARY EXCHANGES OUTSIDE THE UNITED STATES

(a) IN GENERAL.—Chapter 143 of title 10, United States Code, is amended by adding after section 2423 (as added by section 323) the following new section:

"§ 2424. Procurement of supplies and services from exchange stores outside the United States

"(a) AUTHORITY.—The Secretary of Defense may authorize an element of the Department of Defense to enter into a contract (through the use of procedures other than competitive procedures) with an exchange store operated under the jurisdiction of the Secretary of a military department outside the United States to procure supplies or services for use by the armed forces outside the United States.

"(b) LIMITATIONS.—(1) A contract may not be entered into under subsection (a) in an amount in excess of $50,000.

"(2) Supplies provided under a contract entered into under subsection (a) shall be provided from the stocks of the exchange store on hand as of the date the contract is entered into with that exchange store.

"(3) A contract entered into with an exchange store under subsection (a) may not provide for the procurement of services not regularly provided by that exchange store.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2423 (as added by section 323) the following new item:

"2424. Procurement of supplies and services from exchange stores outside the United States.".

SEC. 325. TUITION-FREE ENROLLMENT OF DEPENDENTS OF CERTAIN EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES IN SCHOOLS OF THE DEFENSE DEPENDENTS' EDUCATION SYSTEM

(a) Sponsor Defined to Include Certain Employees of Nonappropriated Fund Instrumentalities.—Section 1414(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 932(2)) is amended to read as follows:

"(2) The term 'sponsor' means a person—

"(A) who is—

"(i) a member of the Armed Forces serving on active duty, or

"(ii) a full-time civilian officer or employee of the Department of Defense and a citizen or national of the United States; and

"(B) who is authorized to transport dependents to or from an overseas area at Government expense and is provided an allowance for living quarters in that area.".

(b) Conforming Amendment.—Section 1404(d)(1) of such Act (20 U.S.C. 923(d)(1)) is amended by striking out "(including employees of nonappropriated fund activities of the Department of Defense)" in subparagraph (A) and inserting in lieu thereof "(other than civilian officers and employees who are sponsors under section 1414(2))".

(c) Effective Date.—The amendments made by this section shall apply with respect to periods of enrollment in schools of the defense dependents' education system beginning after September 30, 1989.

10 USC 923 note.

SEC. 326. AUTHORITY TO USE APPROPRIATED FUNDS TO SUPPORT STUDENT MEAL PROGRAMS IN DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) Authority Provided.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools

"(a) Authority.—Subject to subsection (b), amounts appropriated to the Department of Defense for the operation of the defense dependents' education system may be used by the Secretary of Defense to enable an overseas meal program to provide students enrolled in that system with meals at a price equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

"(b) **Limitation.**—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide meals under that program at a price for students equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

"(c) **Determining Average Price.**—In determining the average price paid by students in the United States for meals under a school meal program, the Secretary of Defense shall exclude free and reduced price meals provided pursuant to income guidelines.

"(d) **Overseas Meal Program Defined.**—In this section, the term 'overseas meal program' means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending Department of Defense dependents' schools which are located outside the United States.".

(b) **Clerical Amendment.**—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2243. Authority to use appropriated funds to support student meal programs in overseas dependents' schools.".

SEC. 327. COMMERCIAL SALE OF RECORDING OF AIR FORCE SINGING SERGEANTS

The Secretary of the Air Force may enter into an appropriate contract providing for the production and commercial sale of a recording made on April 9, 1989, by the Cincinnati Pops Orchestra and members of the Air Force known as the United States Air Force Singing Sergeants. Any contract entered into under this section shall contain such provisions as the Secretary considers appropriate to protect the interests of the United States.

Hawaii.

SEC. 328. TRANSPORTATION OF MOTOR VEHICLES OF MILITARY AND CIVILIAN PERSONNEL STATIONED ON JOHNSTON ISLAND

(a) **Authority To Transport.**—(1) When a member of the Armed Forces or an employee of the Department of Defense is assigned to permanent duty on Johnston Island, one motor vehicle that is owned by the member or employee (or a dependent of the member or employee) may be transported at the expense of the United States to a location in the State of Hawaii from the old duty station of the member or employee (or from a location of lesser distance) if the member or employee designates Hawaii as the State in which the immediate family of the member or employee will reside.

(2) When a member or employee is reassigned from Johnston Island to a new permanent duty station, one motor vehicle that is owned by the member or employee (or a dependent of the member or employee) may be transported at the expense of the United States from the residence in the State of Hawaii of the dependents of the member or employee—

(A) to the new duty station of the member or employee; or

(B) at the request of the member or employee, to such other location not greater than the distance allowed under paragraph (1).

(b) **Regulations.**—Subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense.

SEC. 329. AUTHORITY TO PROVIDE CERTAIN ASSISTANCE TO ANNUAL CONVENTIONS OF NATIONAL MILITARY ASSOCIATIONS

(a) Authority.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2548. National military associations: assistance at national conventions

"(a) Authority To Provide Services.—The Secretary of a military department may provide services described in subsection (c) in connection with an annual conference or convention of a national military association.

"(b) Conditions for Providing Services.—Services may be provided under this section only if—

"(1) the provision of the services in any case is approved in advance by the Secretary concerned;

"(2) the services can be provided in conjunction with training in appropriate military skills; and

"(3) the services can be provided within existing funds otherwise available to the Secretary concerned.

"(c) Covered Services.—Services that may be provided under this section are—

"(1) limited air and ground transportation;
"(2) communications;
"(3) medical assistance;
"(4) administrative support; and
"(5) security support.

"(d) National Military Associations.—The Secretary of Defense shall designate those organizations which are national military associations for purposes of this section.

"(e) Regulations.—The Secretary of Defense shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2548. National military associations: assistance at national conventions.".

(b) Effective Date.—Section 2548 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act. 10 USC 2548 note.

SEC. 330. AUTHORITY TO LEASE FLEET ELECTRONIC WARFARE SUPPORT AIRCRAFT

Section 328 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1957), is amended by striking out "such a lease" and all that follows through the period and inserting in lieu thereof "leasing, operating, and supporting such aircraft is less than the projected costs of operating and maintaining existing aircraft of the Navy for the same activity.".

SEC. 331. ENERGY EFFICIENCY INCENTIVE

Section 736 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2006; 42 U.S.C. 8287 note), is amended as follows:

(1) In subsection (a), by striking out "first-year energy cost savings (as defined in subsection (d)) realized" and inserting in lieu thereof "energy cost savings realized by the United States during the first five years".

(2) In subsection (b)—

(A) by striking out "First-year energy savings" and inserting in lieu thereof "The energy cost savings realized by the United States in each of the first five years under a contract"; and

(B) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) One-half of the amount of such savings may be used for the acquisition of energy conserving measures for military installations, and such measures may be in addition to any such energy conserving measures acquired for military installations under contracts entered into under title VIII of the National Energy Conservation Policy Act.".

(3) In subsection (c)—

(A) by striking out "end of the first year" and inserting in lieu thereof "end of each of the first five years"; and

(B) by striking out "first-year energy cost savings realized under the terms of the contract during that year by the military department concerned" and inserting in lieu thereof "energy cost savings realized by the United States under the terms of the contract during that year".

(4) By striking out subsection (d).

SEC. 332. AUTHORITY TO ACQUIRE RAILROAD TRACK STRUCTURE AND TEMPORARY RIGHT-OF-WAY FOR RAIL LINE

Nevada.

The Secretary of the Army may purchase the railroad track structure and temporary right-of-way in the State of Nevada for the railroad line known as the Mina Branch, located between milepost 331.12, near Wabuska, Nevada, and milepost 385.00, near Thorne, Nevada, for use in connection with the operation of Hawthorne Army Ammunition Plant, Nevada. The Secretary may use any funds appropriated pursuant to section 301 for the Army for fiscal year 1990 to carry out the preceding sentence.

SEC. 333. AUTHORIZATION OF LONG-TERM AIRCRAFT SUPPORT CONTRACT

Marshall Islands.

The Secretary of the Army may enter into a long-term contract pursuant to section 2401 of title 10, United States Code, that includes a lease for the provision of air transportation at Kwajalein Atoll, Republic of the Marshall Islands, if—

(1) the contract does not impose a substantial termination liability on the United States within the meaning of section 2401(a)(1)(B) of title 10, United States Code; and

(2) the contract is made subject to the availability of funds for such purpose.

SEC. 334. SERVICE CONTRACT TO TRAIN UNDERGRADUATE NAVAL FLIGHT OFFICERS

In accordance with sections 2304 and 2401 of title 10, United States Code, the Secretary of the Navy may enter into a contract (to commence after September 30, 1990) for services with respect to the training of undergraduate naval flight officers.

SEC. 335. DEFENSE CONTRACT AUDITORS

Employment and unemployment.

The Secretary of Defense, not later than September 30, 1990, shall increase the number of full-time personnel employed by the Defense Contract Audit Agency to 7,457, of which not less than 6,488 shall be auditors.

SEC. 336. UNIFORM ALLOWANCE FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE REQUIRED TO WEAR UNIFORMS

(a) ALLOWANCE AUTHORIZED.—(1) Chapter 81 of title 10, United States Code, is amended by adding after section 1592 (as added by section 311(b)) the following new section:

"§ 1593. Uniform allowance: civilian employees

"(a) ALLOWANCE AUTHORIZED.—(1) The Secretary of Defense may pay an allowance to each civilian employee of the Department of Defense who is required by law or regulation to wear a prescribed uniform in the performance of official duties.

"(2) In lieu of providing an allowance under paragraph (1), the Secretary may provide a uniform to a civilian employee referred to in such paragraph.

"(3) This subsection shall not apply with respect to a civilian employee of the Defense Intelligence Agency who is entitled to an allowance under section 1606 of this title.

"(b) AMOUNT OF ALLOWANCE.—Notwithstanding section 5901(a) of title 5, the amount of an allowance paid, and the cost of uniforms provided, under subsection (a) to a civilian employee may not exceed $400 per year.

"(c) TREATMENT OF ALLOWANCE.—An allowance paid, or uniform provided, under subsection (a) shall be treated in the same manner as is provided in section 5901(c) of title 5 for an allowance paid under that section.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1592 (as added by section 311(b)) the following new item:

"1593. Uniform allowance: civilian employees.".

(b) CONFORMING AMENDMENT.—Section 1606(b)(2) of title 10, United States Code, is amended by striking out "$360 per year." and inserting in lieu thereof "The maximum allowance provided under section 1593(b) of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

10 USC 1593 note.

PART D—ARMED FORCES RETIREMENT HOMES

Veterans.

SEC. 341. UNITED STATES SOLDIERS' AND AIRMEN'S HOME SUBJECT TO ANNUAL AUTHORIZATIONS OF APPROPRIATIONS

(a) IN GENERAL.—Section 1321(b) of title 31, United States Code, is amended—

(1) by inserting before the period in the third sentence the following: "and only if the appropriations are specifically authorized by law"; and

(2) by striking out the last sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to appropriations for the operation of the United States Soldiers' and Airmen's Home made for fiscal years after fiscal year 1990.

10 USC 1321 note.

SEC. 342. MILITARY FINES AND FORFEITURES TO BENEFIT ARMED FORCES RETIREMENT HOMES

(a) IN GENERAL.—(1) Chapter 165 of title 10, United States Code, is amended by inserting after section 2771 the following new section:

"§ 2772. Share of fines and forfeitures to benefit Armed Forces retirement homes

"(a)(1) The Secretary of the Army and the Secretary of the Air Force shall deposit in the Soldiers' Home, permanent fund, referred to in section 1321(a)(59) of title 31 a percentage (determined under paragraph (2)) of the following amounts:

"(A) The amount of fines adjudged against an enlisted member or warrant officer in the Army or the Air Force by sentence of a court-martial or under authority of section 815 of this title (article 15) over and above any amount that may be due from the member or warrant officer for the reimbursement of the United States or any individual.

"(B) The amount of forfeitures on account of the desertion of an enlisted member or warrant officer in the Army or the Air Force.

"(2) The board of commissioners for the United States Soldiers' and Airmen's Home shall determine, on the basis of the financial needs of that home, the percentage of the amounts referred to in paragraph (1) to be deposited in the Soldiers' Home, permanent fund.

"(b)(1) The Secretary of the Navy shall credit to the funds available for the operation of the Naval Home a percentage (determined under paragraph (2)) of the following amounts:

"(A) The amount of fines adjudged against an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy) by sentence of a court-martial or under authority of section 815 of this title (article 15) over and above any amount that may be due from the member or warrant officer for the reimbursement of the United States or any individual.

"(B) The amount of forfeitures on account of the desertion of an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy).

"(2) The Governor of the Naval Home shall determine, on the basis of the financial needs of the Naval Home, the percentage of the amounts referred to in paragraph (1) to be credited under such paragraph.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2771 the following new item:

"2772. Share of fines and forfeitures to benefit Armed Forces retirement homes.".

10 USC 2772 note.

(b) Application of Amendments.—(1) Subsection (a) of section 2772 of such title, as added by subsection (a), shall apply with respect to fines and forfeitures adjudged after the date of the enactment of this Act.

(2) Subsection (b) of such section shall apply with respect to fines and forfeitures adjudged after May 31, 1990.

SEC. 343. DEDUCTIONS FROM THE PAY OF ENLISTED MEMBERS AND WARRANT OFFICERS TO BENEFIT ARMED FORCES RETIREMENT HOMES

(a) In General.—Section 1007 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) There shall be deducted each month from the pay of each enlisted member and warrant officer of the armed forces on active duty an amount (determined under paragraph (3)) not to exceed 50 cents.

"(2) Amounts deducted under paragraph (1) shall be—

"(A) deposited in the Soldiers' Home, permanent fund, in the case of deductions from the pay of enlisted members and warrant officers in the Army and Air Force; and

"(B) credited to the funds available for the operation of the Naval Home, in the case of deductions from the pay of enlisted members and warrant officers in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy).

"(3) The Secretary of Defense, after consultation with the Governor of the Naval Home and the board of commissioners for the United States Soldiers' and Airmen's Home, shall determine from time to time the amount to be deducted under paragraph (1) from the pay of enlisted members and warrant officers on the basis of the financial needs of the homes. The amount to be deducted may be fixed at different amounts on the basis of grade or length of service, or both.

"(4) In this subsection, the term 'armed forces' does not include the Coast Guard when it is not operating as a service in the Navy.

"(5) This subsection does not apply to an enlisted member or warrant officer of a reserve component.".

37 USC 1007 note.

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), subsection (i) of section 1007 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month beginning after the date of the enactment of this Act.

(2) With respect to deductions from the pay of an enlisted member or warrant officer in the Navy, Marine Corps, or Coast Guard (when it is operating as a service in the Navy), such subsection shall take effect on October 1, 1990.

SEC. 344. INSPECTION OF ARMED FORCES RETIREMENT HOMES BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

During fiscal year 1990, the Inspector General of the Department of Defense shall—

(1) conduct an inspection of each Armed Forces Retirement Home, including the records of that retirement home; and

Reports.

(2) submit to the administering authority of that retirement home, the Secretary of Defense, and the Committees on Armed Services of the Senate and House of Representatives a report—

(A) describing the results of the inspection; and

(B) containing such recommendations as the Inspector General considers appropriate, including any recommendation for future inspections of the retirement homes by the Inspector General.

SEC. 345. REPORT REGARDING IMPROVING THE OPERATION AND MANAGEMENT OF THE ARMED FORCES RETIREMENT HOMES

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report with regard to improving the operation and management of the Armed Forces Retirement Homes.

(b) CONTENT OF THE REPORT.—The report required by subsection (a) shall—

(1) address the feasibility of consolidating the administration and management of the retirement homes;

(2) address the feasibility of standardizing (and include proposals to standardize)—

(A) the eligibility requirements for admission to the retirement homes for persons who served as enlisted members or warrant officers in the Armed Forces;

(B) the monthly fees paid by residents of the retirement homes; and

(C) the funding arrangements for the retirement homes through a single trust fund; and

(3) include proposals to administer the retirement homes through a joint board of directors.

(c) PREPARATION OF THE REPORT.—(1) The Secretary shall appoint a board of five members to review the administration and financing of the United States Soldiers' and Airmen's Home and the Naval Home and to prepare the report required by subsection (a).

(2) The members of the board shall be appointed from persons who—

(A) are not officers or employees of the United States; and

(B) are experts in the fields of gerontology, health care, or the provision of care for elderly persons.

(d) EXPENSES OF PREPARATION.—The expenses of preparing the report required by subsection (a) shall be paid in equal amounts out of the funds available for the operation of the United States Soldiers' and Airmen's Home and the Naval Home.

(e) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than February 15, 1990.

SEC. 346. DEFINITIONS

For purposes of this part:

(1) The terms "Armed Forces Retirement Home" and "retirement home" mean the United States Soldiers' and Airmen's Home or the Naval Home.

(2) The term "administering authority" means—

(A) the board of commissioners for the United States Soldiers' and Airmen's Home, in the case of that home; and

(B) the Governor of the Naval Home, in the case of that home.

(3) The term "Armed Forces" does not include the Coast Guard when it is not operating as a service in the Navy.

SEC. 347. REPEAL OF SUPERSEDED PROVISIONS RELATING TO THE UNITED STATES SOLDIERS' AND AIRMEN'S HOME

The following provisions of law are repealed:

(1) Sections 4818, 4820, and 4823, and the first and third sentences of section 4819, of the Revised Statutes of the United States (24 U.S.C. 44, 51, 53).

(2) Sections 2 through 6 of the Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 52, 55, 56, 57, 60).

(3) The Act entitled "An Act to authorize the Treasurer of the United States to receive and keep on deposit funds of the Soldiers' Home in the District of Columbia", approved January 16, 1891 (26 Stat. 718; 24 U.S.C. 47).

(4) Section 2(a) of Public Law 94-454 (90 Stat. 1518; 24 U.S.C. 44c).

PART E—ENVIRONMENTAL PROVISIONS

SEC. 351. LIMITATION ON USE OF ENVIRONMENTAL RESTORATION FUNDS

Reports.

Of the total amount appropriated pursuant to section 301 for environmental restoration for fiscal year 1990, not more than $517,800,000 may be obligated or expended until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report describing the manner in which funds for such purpose (up to that limit) have been obligated.

SEC. 352. REQUIREMENT FOR DEVELOPMENT OF ENVIRONMENTAL DATA BASE

10 USC 2701 note.

(a) ENVIRONMENTAL DATA BASE.—The Secretary of Defense shall develop and maintain a comprehensive data base on environmental activities carried out by the Department of Defense pursuant to, and environmental compliance obligations to which the Department is subject under, chapter 160 of title 10, United States Code, and all other applicable Federal and State environmental laws. At a minimum, the information in the data base shall include all the fines and penalties assessed against the Department of Defense pursuant to environmental laws and paid by the Department, all notices of violations of environmental laws received by the Department, and all obligations of the Department for compliance with environmental laws. The Secretary may include any other information he considers appropriate.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress in development of the data base required under subsection (a). The report shall include a summary of the information collected for the data base with respect to environmental activities during 1989.

SEC. 353. FIVE-YEAR PLAN FOR ENVIRONMENTAL RESTORATION AT BASES TO BE CLOSED

10 USC 2687 note.

(a) PLAN.—The Secretary of Defense shall develop a comprehensive five-year plan for environmental restoration at military installations that will be closed or realigned during fiscal years 1991 through 1995, pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627). The plan shall cover—

(1) the environmental restoration activities that the Secretary plans to carry out each year at the installations;

(2) the funding requirements needed for such activities; and

(3) such other information as the Secretary considers appropriate.

(b) REPORT.—At the same time the President submits to Congress the budget for fiscal year 1991 (pursuant to section 1105 of title 31, United States Code), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the five-year plan required under subsection (a). The report shall include an itemization of the funding requirements specified in the plan for environmental restoration activities during fiscal year 1991.

Hazardous materials.

SEC. 354. FUNDING FOR WASTE MINIMIZATION PROGRAMS FOR CERTAIN INDUSTRIAL-TYPE ACTIVITIES OF THE DEPARTMENT OF DEFENSE

10 USC 2701 note.

(a) REQUIREMENT TO ESTABLISH WASTE MINIMIZATION PROGRAM.—The Secretary of Defense shall require the Secretary of each military department to establish a program for fiscal year 1992 to reduce the volume of solid and hazardous wastes disposed of, and hazardous materials used by, each industrial-type activity within the department that is a depot maintenance installation and for which a working-capital fund has been established under section 2208 of title 10, United States Code.

(b) FUNDING.—Funding for the waste minimization program in each military department shall come out of payments received by the working-capital funds established for industrial-type and commercial-type activities of the department. The level of funding for fiscal year 1992 shall be not less than ½ of 1 percent of the amount of such payments received during fiscal year 1988 that were used for depot maintenance installation functions at industrial-type activities. The required level of funding for fiscal year 1992 may be reduced by amounts expended for waste minimization during fiscal years 1990 and 1991. In any case in which a military department fails to spend funds at the level required by this subsection for the waste minimization program, the Secretary concerned shall submit to Congress a report explaining the reasons for the failure.

Reports.

(c) NOTICE OF EXCLUDED ACTIVITIES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress the name of each industrial-type or commercial-type activity of each military department which is not covered by the waste minimization program because the activity does not carry out depot maintenance installation functions.

(d) USE OF FUNDS.—Funds available for the waste minimization programs established pursuant to this section shall be used to carry out waste minimization projects at depot maintenance installations. The types of expenses for which such funds may be used include the following (if such expense is related to a waste minimization project):

(1) Operating expenses (including salaries).
(2) Equipment purchase expenses.
(3) Facility modification expenses.
(4) Process change expenses.
(5) Product substitution expenses.
(6) Military construction expenses.
(7) Research, development, test, and evaluation expenses.
(8) Expenses for the lease of equipment or facilities.

(e) RECOVERY OF COSTS.—Each project carried out at an industrial-type activity as part of a waste minimization program established pursuant to this section shall be designed to achieve, over the expected useful life of the project, reductions in the cost of the disposal of solid and hazardous wastes generated by the activity in an amount which is not less than the cost of the project. The Secretary of a military department may provide funds for a project that does not meet the requirement of the preceding sentence if the Secretary certifies to Congress that—

(1) the project will result in a reduction of solid or hazardous waste disposed of, or hazardous materials used by, the activity; or

(2) the project will eliminate or reduce the likelihood of harm to human health or the environment.

SEC. 355. SENSE OF CONGRESS CONCERNING INVESTIGATION OF SOIL AND WATER CONTAMINATION NEAR MEAD, NEBRASKA

(a) FINDINGS.—Congress finds the following:

(1) The Army Corps of Engineers is carrying out an investigation of soil and water contamination at the former Nebraska Ordnance Plant near Mead, Nebraska.

(2) Solvents, polychlorinated byphenals, Research Department Explosive (RDX), and explosive materials used in making ammunition have been discovered during the course of the investigation.

(b) SENSE OF CONGRESS.—(1) It is the sense of Congress that the Secretary of the Army should carry out the investigation referred to in subsection (a) as promptly as possible consistent with other environmental cleanup responsibilities, and (2) should continue to keep interested parties, including potentially affected residents in the area, University of Nebraska officials, and State and local government personnel, fully advised of developments relating to the investigation and activities at the site.

10 USC 2701 note.

SEC. 356. USE OF CHLOROFLUOROCARBONS AND HALONS IN THE DEPARTMENT OF DEFENSE

(a) CHLOROFLUOROCARBONS EMISSION REDUCTION.—The Secretary of Defense shall formulate and carry out, through the Under Secretary of Defense for Acquisition, a program to reduce the unnecessary release of chlorofluorocarbons (hereinafter in this section referred to as "CFCs") and halons into the atmosphere in connection with maintenance operations and training and testing practices of the Department of Defense.

(b) REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the program the Secretary proposes to carry out pursuant to subsection (a). The Secretary shall specify in the report the reduction goals that are attainable on the basis of known technology, including the use of refrigerant recovery systems currently available. The Secretary shall include in the report a schedule for meeting those goals. The Secretary shall also include in such report reduction goals that can be achieved only with the use of new technology and assess the technologies and investment that will be required to attain those goals within a five-year period.

(2) Before the report required under paragraph (1) is submitted to the committees named in such paragraph, the Secretary shall transmit a copy of the report to the Administrator of the Environmental Protection Agency for comment.

Establishment.

(c) DOD REQUIREMENTS FOR CFCs.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary shall establish an advisory committee to be known as the "CFC Advisory Committee" (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of not more than 15 members, with an equal number of representatives from the Department of Defense, the Environmental Protection Agency, and defense contractors. Members representing defense contractors shall be contractors that supply the Department of Defense with products or equipment that require the use of CFCs.

(2) It shall be the function of the Committee to study (A) the use of CFCs by the Department of Defense and by contractors in the performance of contracts for the Department of Defense, and (B) the cost and feasibility of using alternative compounds for CFCs or using alternative technologies that do not require the use of CFCs.

(3) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of CFCs.

(4) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that do not specify use of CFCs but cannot be met without the use of CFCs.

(d) Report.—Not later than September 30, 1990, the Secretary shall submit to the committees named in subsection (b) a report containing the results of the study by the Committee. The report shall—

(1) identify cases in which the Committee found that substitutes for CFCs could be made most expeditiously;

(2) identify the feasibility and cost of substituting compounds or technologies for CFC uses referred to in subsection (c)(3) and estimate the time necessary for completing the substitution;

(3) identify CFC uses referred to in subsection (c)(4) for which substitutes are not currently available and indicate the reasons substitutes are not available;

(4) describe the types of research programs that should be undertaken to identify substitute compounds or technologies for CFC uses referred to in paragraphs (3) and (4) of subsection (c) and estimate the cost of the program;

(5) recommend procedures to expedite the use of substitute compounds and technologies offered by contractors to replace CFC uses;

(6) estimate the earliest date on which CFCs will no longer be required for military applications; and

(7) estimate the cost of revising military specifications for the use of substitutes for CFCs, the additional costs resulting from modification of Department of Defense contracts to provide for the use of substitutes for CFCs, and the cost of purchasing new equipment and reverification necessitated by the use of substitutes for CFCs.

SEC. 357. ANNUAL REPORT ON DEFENSE BUDGET FOR ENVIRONMENTAL COMPLIANCE

(a) Report.—(1) Section 2706 of title 10, United States Code, is amended—

(A) by inserting "(1)" before "The Secretary of Defense" in subsection (a);

(B) by striking out the subsection heading of subsection (b), redesignating paragraphs (1) through (4) of that subsection as subparagraphs (A) through (D), and redesignating such subsection as paragraph (2); and

(C) by adding at the end the following new subsection:

"(b) Environmental Budget Report.—(1) Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Defense shall submit to Congress a report on—

"(A) the funding levels required for the Department of Defense to comply with applicable environmental laws during the fiscal year for which the budget is submitted; and

"(B) the funding levels requested for such purposes in the budget as submitted by the President.

"(2) The Secretary shall include in the report an explanation of any differences in the funding level requirements and the funding level requests in the budget.".

(2)(A) The heading of such section is amended to read as follows:

"§ 2706. Annual reports to Congress".

(B) The item relating to such section in the table of sections at the beginning of chapter 106 of such title is amended to read as follows:

"2706. Annual reports to Congress.".

(b) EFFECTIVE DATE.—The first environmental budget report under subsection (b) of section 2706 of such title (as added by subsection (a)) shall be submitted at the same time the President submits the budget for fiscal year 1992.

10 USC 2706 note.

SEC. 358. REPORT ON ENVIRONMENTAL REQUIREMENTS AND PRIORITIES

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the long-range environmental challenges and goals of the Department of Defense.

10 USC 2701 note.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A discussion of major environmental concerns that the Department of Defense will face world-wide in the next decade, and a qualitative and quantitative assessment, where practicable, of each concern.

(2) A status report of current efforts, programs, resources, and policies used to address the concerns identified under paragraph (1), including the estimated cost, as of the date of the report, of disposing of solid waste and effluent generated by the Department of Defense.

(3) The projected funding for and schedule of actions under the Defense Environmental Restoration Program referred to in section 2701(a)(1) of title 10, United States Code.

(4) An assessment of anticipated Federal, State, and local environmental regulatory requirements and the effects of such requirements on operations and activities of the Department of Defense.

(5) An analysis of all the information described in paragraphs (1) through (4) and a discussion of potential courses of action, priorities, and goals of the Department of Defense, including the adoption of alternative waste minimization and disposal policies, such as requiring the purchase of biodegradable plastics and recycled paper, the recycling of post-consumer waste, and the consumption of ethanol and other alternative fuels.

(6) Such comments and recommendations as the Secretary considers appropriate.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than two years after the date of the enactment of this Act.

SEC. 359. REPORTS ON ENVIRONMENTAL RESTORATION OF JEFFERSON PROVING GROUND, INDIANA

(a) REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives three annual reports and a final report on plans and schedules for remediation of the environmental contamination at the Jefferson Proving Ground, Indiana, resulting from the activities of the Department of Defense.

(b) MATTERS TO BE INCLUDED IN FINAL REPORT.—The final report required by subsection (a) shall include the following:

(1) A description of the nature and extent of the environmental contamination, including any contamination resulting from hazardous materials.

(2) A detailed plan to restore all portions of the Jefferson Proving Ground south of the firing line to full and unrestricted use.

(3) A description of all portions of the Jefferson Proving Ground which the Department of Defense does not plan to make available for full and unrestricted use for reasons of liability, costs of cleanup, or any other reason.

(4) A plan to finance the cleanup of the Jefferson Proving Ground, including estimated costs of the cleanup, identification of the sources of funds for cleanup, and a time schedule for implementation of cleanup measures.

(c) CONSULTATION.—The Secretary shall consult with appropriate State and local officials in preparing the reports required by subsection (a).

(d) DEADLINES.—The first annual report required by subsection (a) shall be submitted not later than April 15, 1990. The final report required by subsection (a) shall be submitted not later than April 15, 1993.

Pollution.

SEC. 360. STUDY OF ENVIRONMENTAL DAMAGE TO SHENANDOAH RIVER

(a) STUDY REQUIREMENT.—The Administrator of the Environmental Protection Agency, in consultation with the State of Virginia, shall conduct a study to determine the environmental damage to the Shenandoah River that has resulted, or may be resulting, from activities of any company under contract with the Department of Defense and the National Aeronautics and Space Administration.

(b) MATTERS TO BE STUDIED.—In conducting the study, the Administrator shall determine the following:

(1) The degree of the pollution in the Shenandoah River, and any other environmental effects on the river, attributable to the activities of any company described in subsection (a).

(2) An estimate of the amount of funds and the length of time needed to assure attainment of any water quality standards for the river established under section 303 of the Federal Water Pollution Control Act, to assure protection of public water supplies, and to assure protection and propagation of a balanced, indigenous population of fish (including shellfish) and wildlife.

Reports.

(c) DEADLINES.—The Administrator shall submit to Congress—

(1) a plan for carrying out the study required by this section not later than December 31, 1989;

(2) a progress report on the study not later than June 30, 1990; and

(3) a final report on the study not later than December 31, 1990.

SEC. 361. STUDY OF WASTE RECYCLING

10 USC 2701 note.

(a) STUDY.—The Secretary of Defense shall conduct a study of the following:

(1) Current practices and future plans for managing postconsumer waste at facilities of the Department of Defense at which such waste is generated, including commissary and exchange stores, cafeterias, and mess halls.

(2) The feasibility of such Department of Defense facilities participating in programs at military installations or in local communities to recycle the postconsumer waste generated at the facilities.

(b) POSTCONSUMER WASTE DEFINED.—For purposes of this section, the term "postconsumer waste" means garbage and refuse, including items that have passed through their end use as consumer items.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the findings and conclusions of the Secretary resulting from the study.

PART F—MISCELLANEOUS REPORTS

SEC. 371. REPORT ON MILITARY USE OF THE INLAND NAVIGATION SYSTEM

Not later than one year after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the potential for obtaining efficiencies, savings, and enhanced mobilization preparedness through increased use of the national inland waterway system by the Department of Defense and defense industries.

SEC. 372. REPORT ON MANPOWER, MOBILITY, SUSTAINABILITY, AND EQUIPMENT

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the readiness of the Armed Forces (in terms of manpower, mobility, sustainability, and equipment) to perform their assigned missions. The report shall be based on the manpower and other resources planned for the Armed Forces in the budget for the Department of Defense for fiscal year 1991.

(b) MATTERS TO BE INCLUDED IN REPORT.—The Secretary shall include in the report required by subsection (a) the following:

(1) A detailed analysis of trends in readiness and sustainability of the military forces of the United States over the five-year period 1986 to 1990 and, based on the current Five-Year Defense Program or other planning document approved by the Secretary, a projection of such trends over the succeeding five-year period.

(2) A detailed evaluation of the readiness and sustainability of the unified combatant commands and the specified combatant commands of the Armed Forces.

(3) A discussion of—

(A) the readiness and sustainability of the military forces of the United States in terms of the standards approved by the Secretary of Defense;

(B) the readiness and sustainability of allied forces of the United States; and

(C) the readiness and sustainability of potential enemy forces.

(4) A list of all improvements that need to be made in the readiness and sustainability of the manpower, mobility, and equipment of the Armed Forces to correct major shortfalls of the unified combatant commands and the specified combatant commands, the relative priority of each such improvement, and the estimated cost of each such improvement.

(5) Such other information regarding the readiness of the Armed Forces (in terms of manpower, mobility, sustainability, and equipment) as the Secretary considers appropriate.

(c) PRIORITY FOR IMPROVEMENTS.—The relative priority of the improvements referred to in subsection (b)(4) shall be determined by the Secretary on the basis of the improvements necessary to ensure the ability of the Armed Forces to perform their assigned missions and the ability of the United States to meet its military commitments.

(d) SUBMISSION OF REPORT.—The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later than February 15, 1990.

SEC. 373. REPORT ON SECOND SOURCE FOR CARBONIZABLE RAYON YARN

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the progress and schedule (including a time certain) for the Department of Defense to establish a certified second production source for carbonizable rayon yarn for use by the Department of Defense and the National Aeronautics and Space Administration on heat shields and rocket nozzles of reentry space vehicles.

(b) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act.

SEC. 374. REPORT ON MILITARY RECRUITING ADVERTISING EXPENDITURES

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating—

(1) the results of using each of the types of media for military recruiting purposes; and

(2) the anticipated effects on military recruitment of devoting to print media advertising each year a greater portion of the total expenditures made in a year for recruitment advertising.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1990, as follows:

(1) The Army, 764,021, of which not more than 106,001 may be officers.

(2) The Navy, 591,541, of which not more than 72,493 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,110 may be officers.

(4) The Air Force, 567,474, of which not more than 102,200 may be officers.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1991, as follows:

(1) The Army, 763,721, of which not more than 105,675 may be officers.

(2) The Navy, 591,541, of which not more than 72,313 may be officers.

(3) The Marine Corps, 197,159, of which not more than 20,108 may be officers.

(4) The Air Force, 562,415, of which not more than 102,069 may be officers.

SEC. 402. REDUCTION FOR FISCAL YEAR 1991 IN NUMBER OF AIR FORCE COLONELS

10 USC 523 note.

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1991 is hereby reduced by 250.

SEC. 403. TEMPORARY INCREASE IN OFFICER GRADE LIMITATIONS

10 USC 523 note.

(a) AUTHORITY TO INCREASE NUMBERS FOR FISCAL YEARS 1990 AND 1991.—The Secretary of Defense may increase the strength-in-grade limitations specified in section 523(a) of title 10, United States Code, by a total of 250 positions, to be distributed among grades and services as the Secretary considers appropriate. Any increase pursuant to the preceding sentence in an otherwise applicable limitation shall expire, as specified by the Secretary, not later than September 30, 1991.

(b) REPORT ON GRADE TABLE RESTRICTIONS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the adequacy of the strength-in-grade limitations prescribed in section 523(a) of title 10, United States Code. The report shall particularly address how those limitations affect the ability of the Department of Defense to recruit and retain nurses and other health professionals for service on active duty. The report shall include such recommendations as the Secretary considers appropriate and shall be submitted not later than March 1, 1990.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

10 USC 261 note.

(a) FISCAL YEAR 1990.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1990, as follows:

(1) The Army National Guard of the United States, 458,000.
(2) The Army Reserve, 321,700.
(3) The Naval Reserve, 153,400.
(4) The Marine Corps Reserve, 44,000.
(5) The Air National Guard of the United States, 116,200.
(6) The Air Force Reserve, 84,900.
(7) The Coast Guard Reserve, 15,000.

(b) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1991, as follows:

(1) The Army National Guard of the United States, 458,500.
(2) The Army Reserve, 323,100.
(3) The Naval Reserve, 155,000.
(4) The Marine Corps Reserve, 44,100.
(5) The Air National Guard of the United States, 116,300.
(6) The Air Force Reserve, 85,200.
(7) The Coast Guard Reserve, 15,150.

(c) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength authorized by subsection (a) or subsection (b) by not more than 2 percent.

(d) ADJUSTMENTS.—The end strengths prescribed by subsection (a) or (b) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) FISCAL YEAR 1990.—Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1990, the following number of Reserves to be serving on full-time active duty, or in the case of members of the National Guard, full-time National Guard duty, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,164.
(2) The Army Reserve, 13,680.
(3) The Naval Reserve, 22,708.
(4) The Marine Corps Reserve, 2,301.

(5) The Air National Guard of the United States, 8,517.
(6) The Air Force Reserve, 686.

(b) Fiscal Year 1991.—Within the end strengths prescribed in section 411(b), the reserve components of the Armed Forces are authorized, as of September 30, 1991, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 26,514.
(2) The Army Reserve, 14,027.
(3) The Naval Reserve, 23,565.
(4) The Marine Corps Reserve, 2,401.
(5) The Air National Guard of the United States, 8,468.
(6) The Air Force Reserve, 700.

SEC. 413. INCREASE IN NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

(a) Senior Enlisted Members.—(1) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	542	200	224	13
E-8	2,504	425	637	74".

(2) Effective on October 1, 1990, that table is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	557	202	231	13
E-8	2,585	429	670	74".

(b) Officers.—(1) The table in section 524(a) of such title is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,030	1,[illegible]	575	110
Lieutenant Colonel or Commander	1,448	5[illegible]	476	75
Colonel or Navy Captain	351	188	190	25"

(2) Effective on October 1, 1990, that table is amended to read as follows: Effective date.

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	575	110
Lieutenant Colonel or Commander	1,524	520	532	75
Colonel or Navy Captain	364	188	194	25".

PART C—MILITARY TRAINING STUDENT LOADS

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) FISCAL YEAR 1990.—For fiscal year 1990, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 79,667.
(2) The Navy, 67,224.
(3) The Marine Corps, 21,656.
(4) The Air Force, 39,575.
(5) The Army National Guard of the United States, 19,168.
(6) The Army Reserve, 15,377.
(7) The Naval Reserve, 3,237.
(8) The Marine Corps Reserve, 4,179.
(9) The Air National Guard of the United States, 2,941.
(10) The Air Force Reserve, 1,752.

(b) FISCAL YEAR 1991.—For fiscal year 1991, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 74,760.
(2) The Navy, 66,517.
(3) The Marine Corps, 22,235.
(4) The Air Force, 37,757.
(5) The Army National Guard of the United States, 18,667.
(6) The Army Reserve, 15,963.
(7) The Naval Reserve, 3,259.
(8) The Marine Corps Reserve, 4,178.
(9) The Air National Guard of the United States, 2,939.
(10) The Air Force Reserve, 1,774.

(c) ADJUSTMENTS.—The average military student loads authorized in subsections (a) and (b) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

PART D—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL FOR FISCAL YEAR 1990

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1990 a total of $78,780,742,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1990.

TITLE V—MILITARY PERSONNEL

Part A—Reserve Components Matters

SEC. 501. DELAYED ENTRY PROGRAM AND DELAYED ENTRY TRAINING PROGRAM FOR RESERVISTS

(a) Delayed Entry Program Enlistments.—(1) Chapter 31 of title 10, United States Code, is amended by inserting after section 512 the following new section:

"§ 513. Enlistments: Delayed Entry Program

"(a) A person with no prior military service who is qualified under section 505 of this title and applicable regulations for enlistment in a regular component of an armed force may (except as provided in subsection (c)) be enlisted as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve for a term of not less than six years nor more than eight years.

"(b) Unless sooner ordered to active duty under chapter 39 of this title or another provision of law, a person enlisted under paragraph (1) shall, within 365 days after such enlistment, be discharged from the reserve component in which enlisted and immediately be enlisted in the regular component of an armed force. During the period beginning on the date on which the person enlists under subsection (a) and ending on the date on which the person is enlisted in a regular component under the preceding sentence, the person shall be in the Ready Reserve of the armed force concerned.

"(c) A person who is under orders to report for induction into an armed force under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), except as provided in clause (ii) or (iii) of section 6(c)(2)(A) of that Act, may not be enlisted under paragraph (1).

Regulations.

"(d) This section shall be carried out under regulations to be prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 512 the following new item:

"513. Enlistments: Delayed Entry Program.".

(b) Exemption of DEP Enlistees From Ready Reserve Training Requirements.—Section 270(a) of title 10, United States Code, is amended by inserting "or 513" after "section 269(b)" in the first sentence.

(c) Limitation on Crediting DEP Service for Longevity for Pay.—Subsection (e) of section 205 of title 37, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding subsection (a), a period of service described in paragraph (2) of a member who enlists in a reserve component may not be counted under this section.

"(2) Paragraph (1) applies to the following service:

"(A) Service performed while a member of a reserve component under an enlistment under section 511(b) or 511(d) of title 10 before the member begins service on active duty under such section (including a period of active duty for training) unless the member performs inactive-duty training before beginning service on active duty or active duty for training;

"(B) Service performed while a member of a reserve component under an enlistment under section 513 of title 10 (other than a period of active duty to which the member is ordered under chapter 39 of title 10 or another provision of law).".

SEC. 502. ANNUAL MUSTER DUTY AND MUSTER DUTY PAY FOR READY RESERVISTS

(a) ORDER TO ANNUAL MUSTER DUTY.—(1) Chapter 39 of title 10, United States Code, is amended by inserting after section 686 the following new section:

"§ 687. Ready Reserve: muster duty

"(a) Under regulations prescribed by the Secretary of Defense, a member of the Ready Reserve may be ordered without his consent to muster duty one time each year. A member ordered to muster duty under this section shall be required to perform a minimum of two hours of muster duty on the day of muster.

"(b) The period which a member may be required to devote to muster duty under this section, including round-trip travel to and from the location of that duty, may not total more than one day each calendar year.

"(c) Except as specified in subsection (d), muster duty (and travel directly to and from that duty) under this section shall be treated as the equivalent of inactive-duty training (and travel directly to and from that training) for the purposes of this title and the provisions of title 37 (other than section 206(a)) and title 38, including provisions relating to the determination of eligibility for and the receipt of benefits and entitlements provided under those titles for Reserves performing inactive-duty training and for their dependents and survivors.

"(d) Muster duty under this section shall not be credited in determining entitlement to, or in computing, retired pay under chapter 67 of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 686 the following new item:

"687. Ready Reserve: muster duty.".

(b) ALLOWANCE FOR ANNUAL MUSTER DUTY.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 433. Allowance for muster duty

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the Ready Reserve who is not a member of the National Guard or of the Selected Reserve is entitled to an allowance for muster duty performed pursuant to section 691 of title 10 if the member is engaged in that duty for at least two hours.

"(b) The amount of the allowance under this section shall be 125 percent of the amount of the average per diem rate for the United States (other than Alaska and Hawaii) under section 404(d)(2)(A) of this title as in effect on September 30 of the year preceding the year in which the muster duty is performed.

"(c) The allowance authorized by this section may not be disbursed in kind and shall be paid to the member on or before the date on which the muster duty is performed. The allowance shall constitute the single, flat-rate monetary allowance authorized for the performance of muster duty and shall constitute payment in full to the member, regardless of grade or rank in which serving, as commutation for travel to the immediate vicinity of the designated muster duty location, transportation, subsistence, and the special or extraordinary costs of enforced absence from home and civilian pursuits, including such absence on weekends and holidays.

"(d) A member who performs muster duty is not entitled to compensation for inactive-duty training under section 206(a) of this title for the same period.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"433. Allowance for muster duty.".

SEC. 503. THREE-YEAR EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS

(a) Grade Determination Authority for Certain Reserve Medical Officers.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(b) Promotion Authority for Certain Reserve Officers Serving on Active Duty.—(1) Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

10 USC 3380 note.

(2) The Secretary of the Army or the Secretary of the Air Force, as appropriate, shall provide, in the case of a Reserve officer appointed to a higher grade on or after the date of the enactment of this Act under an appointment described in paragraph (3), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

10 USC 3380 note.

(3) An appointment referred to in paragraph (2) is an appointment under 3380 or 8380 of title 10, United States Code, that (as determined by the Secretary concerned) would have been made during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.

Effective date.

(c) Years of Service for Mandatory Transfer to the Retired Reserve.—Effective as of October 1, 1989, section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note), is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 504. TWO-YEAR EXTENSION OF AUTHORITY FOR CERTAIN SINGLE PARENTS TO ENLIST IN RESERVE COMPONENTS

Section 523(d) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 510 note) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1991".

SEC. 505. TWO-YEAR PROGRAM OF SPECIAL UNIT ASSIGNMENT PAY FOR ENLISTED MEMBERS OF SELECTED RESERVE

(a) Special Pay.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 308c the following new section:

"§ 308d. Special pay: enlisted members of the Selected Reserve assigned to certain high priority units

Regulations.

"(a) Under regulations prescribed by the Secretary of Defense, an enlisted member who is assigned to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force, as designated under subsection (b), and who performs inactive duty for training for compensation under section 206 of this title with such unit may be paid compensation, in addition to the compensation to which the member is otherwise entitled, in an amount not to exceed $10 for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least four hours, including any such instruction or duty performed on a Sunday or holiday.

"(b) The Secretary concerned may designate a unit, for the purposes of subsection (a) and under such terms and conditions as the Secretary considers appropriate, as a high priority unit if that unit has experienced, or reasonably might be expected to experience, critical personnel shortages. The Secretary may vacate a designation made under this subsection at any time he considers the designation no longer necessary.

"(c) Additional compensation may not be paid under this section for inactive duty performed after September 30, 1991.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 308c the following new item:

"308d. Special pay: enlisted members of the Selected Reserve assigned to certain high priority units.".

10 USC 308d note.

(b) Report.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the administration of the special pay program provided for in section 308d of title 37, United States Code, as added by subsection (a). The report shall be submitted not later than May 1, 1991, and shall include such comments and recommendations as the Secretary considers appropriate.

SEC. 506. MILITARY EDUCATION FOR CIVILIAN TECHNICIANS OF THE ARMY NATIONAL GUARD

10 USC 709 note.

(a) Battle Skills Courses.—A civilian technician of the Army National Guard may not be denied a military promotion because of the failure of the technician to attend the Battle Skills Course if the technician has requested in writing to attend such a course and has not been selected to attend a course that would permit completion of the course within one year after such request. If a civilian technician receives a military promotion before the technician has completed the Battle Skills Course, the technician shall complete that course within one year after the date of the promotion.

(b) Treatment of Training Under Earlier Programs.—For purposes of any reserve component noncommissioned officers education program established for the training of civilian technicians of the Army National Guard, the Secretary of the Army shall accept as meeting the requirements of that program—

(1) training completed by a civilian technician before October 1, 1987, through courses known as—

(A) Primary Leadership Development courses;

(B) Basic Noncommissioned Officers courses; and

(C) Advanced Noncommissioned Officers courses; and

(2) an abbreviated course to update leadership training, knowledge of doctrine, and tactical skills.

(c) Plan.—(1) The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan to use State and National Guard Bureau regional academies by October 1, 1993, to provide the portion of the Reserve Component Noncommissioned Officers Education System specifically related to military occupational specialties. Such plan shall also identify personnel, funds, and other resources required to implement the plan.

(2) The Secretary of the Army shall submit the plan required by paragraph (1) not later than April 1, 1990.

(d) Amendment.—Section 523 of Public Law 100-456 (102 Stat. 1974) is amended by striking out "shall" in subsections (a) and (c) and inserting in lieu thereof "may, at the technician's option,".

32 USC 709 note.

Part B—Other Matters

SEC. 511. INCREASE IN SERVICE OBLIGATION FOR GRADUATES OF THE SERVICE ACADEMIES AND THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

(a) Uniformed Services University of the Health Sciences.—Section 2114(b) of title 10, United States Code, is amended by striking out "seven years" in the fourth sentence and inserting in lieu thereof "10 years".

(b) Military Academy.—Section 4348(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(c) Naval Academy.—Section 6959(a)(2)(B) of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

(d) Air Force Academy.—Section 9348 of such title is amended by striking out "five years" and inserting in lieu thereof "six years".

10 USC 2114 note.

(e) Effective Date.—The amendments made by this section shall apply to persons who are first admitted to the Uniformed Services University of the Health Sciences or one of the military service academies after December 31, 1991.

SEC. 512. EXTENSION OF AUTHORITY TO MAKE TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS

(a) Three-Year Extension.—Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

10 USC 5721 note.

(b) Savings Provision.—(1) The Secretary of the Navy shall provide, in the case of an officer appointed to the grade of lieutenant commander on or after the date of the enactment of this Act under an appointment described in paragraph (2), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

(2) An appointment referred to in paragraph (1) is an appointment under 5721 of title 10, United States Code, that (as determined by the Secretary of the Navy) would have been made during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.

SEC. 513. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

(a) AUTHORITY TO TEST BEFORE ACCESSION.—Subsection (a) of section 978 of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Secretary concerned shall require that, except as provided under paragraph (2), each person applying for an original enlistment or appointment in the armed forces shall be required, before becoming a member of the armed forces, to—

"(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

"(B) be evaluated for drug and alcohol dependency.

"(2) The Secretary concerned may provide that, in lieu of undergoing the testing and evaluation described in paragraph (1) before becoming a member of the armed forces, a member of the armed forces under the Secretary's jurisdiction may be administered that testing and evaluation after the member's initial entry on active duty. In any such case, the testing and evaluation shall be carried out within 72 hours of the member's initial entry on active duty.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (b) of such section is amended to read as follows:

"(b) A person who refuses to consent to testing and evaluation required by subsection (a) may not (unless that person subsequently consents to such testing and evaluation)—

"(1) be accepted for an original enlistment in the armed forces or given an original appointment as an officer in the armed forces; or

"(2) if such person is already a member of the armed forces, be retained in the armed forces.

An original appointment of any such person as an officer shall be terminated.".

(2) Subsection (c) of such section is amended—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting at the beginning of the subsection the following new paragraph (1):

"(1) A person determined, as the result of testing conducted under subsection (a)(1), to be dependent on drugs or alcohol shall be denied entrance into the armed forces.";

(C) in paragraph (2) (as so redesignated), by striking out "subsection (a)(1)(B)" and inserting in lieu thereof "subsection (a)(2)"; and

(D) in paragraph (3) (as so redesignated)—

(i) by inserting "who is denied entrance into the armed forces under paragraph (1), or a" after "A person"; and

(ii) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (2),".

(c) EXCESS LEAVE STATUS FOR PERSONS TESTING POSITIVE.—Subsection (c) of such section, as amended by subsection (b), is further amended by adding at the end the following new paragraph:

"(4) The Secretary concerned may place on excess leave any member of the armed forces whose test results under subsection (a)(2) are positive for drug or alcohol use. The Secretary may continue such member's status on excess leave pending disposition of the member's case and processing for administrative separation.".

(d) Transition Provision.—The amendments made by subsections (a) and (b) shall take effect as of October 1, 1989.

Effective date.
10 USC 978 note.

SEC. 514. CORRECTION OF MILITARY RECORDS CONCERNING PROMOTIONS AND ENLISTMENTS OF ENLISTED MEMBERS

(a) Authority of Service Secretaries.—Subsection (a) of section 1552 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice. Except as provided in paragraph (2), such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that military department. The Secretary of Transportation may in the same manner correct any military record of the Coast Guard.

"(2) The Secretary concerned is not required to act through a board in the case of the correction of a military record announcing a decision that a person is not eligible to enlist (or reenlist) or is not accepted for enlistment (or reenlistment) or announcing a decision not to promote an enlisted member to a higher grade. Such a correction may be made only if the correction is favorable to the person concerned.

"(3) Corrections under this section shall be made under procedures established by the Secretary concerned. In the case of the Secretary of a military department, those procedures must be approved by the Secretary of Defense.

"(4) Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.".

(b) Time for Request for Correction.—Subsection (b) of such section is amended by striking out "subsection (a)" both places it appears and inserting in lieu thereof "subsection (a)(1)".

SEC. 515. TITLE OF ADMISSIONS OFFICER OF UNITED STATES AIR FORCE ACADEMY

(a) Change in Title of Registrar.—Chapter 903 of title 10, United States Code, is amended as follows:

(1) Section 9331(b)(6) is amended by striking out "registrar" and inserting in lieu thereof "director of admissions".

(2) Section 9333(c) is amended by striking out "registrar" and inserting in lieu thereof "director of admissions".

(3) Section 9334(b) is amended by striking out "registrar" and inserting in lieu thereof "director of admissions".

(4) Section 9336(b) is amended by striking out "registrar" each place it appears and inserting in lieu thereof "director of admissions".

(b) Clerical Amendments.—(1) The heading of section 9336 of such title is amended to read as follows:

"§ 9336. Permanent professors; director of admissions".

(2) The item relating to such section in the table of sections at the beginning of chapter 903 of such title is amended to read as follows:

"9336. Permanent professors; director of admissions.".

SEC. 516. ELIGIBILITY FOR PRISONER OF WAR MEDAL

(a) Extension to Members Held by Hostile Forces.—Section 1128(a) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) by foreign armed forces that are hostile to the United States, under circumstances which the Secretary concerned finds to have been comparable to those under which persons have generally been held captive by enemy armed forces during periods of armed conflict.".

10 USC 1128 note.

(b) EFFECTIVE DATE.—Paragraph (4) of section 1128(a) of title 10, United States Code, as added by subsection (a), applies with respect to periods of captivity after April 5, 1917.

SEC. 517. GAO REPORT ON TECHNICAL TRAINING FOR RECRUITS AND MEMBERS OF THE RESERVE COMPONENTS

(a) REPORT REGARDING PROVISION OF TECHNICAL TRAINING.—The Comptroller General of the United States shall prepare a report on various options for providing technical training for military recruits and members of the reserve components. The report shall evaluate the practicality and desirability of—

(1) providing persons who desire to enlist in the Armed Forces with technical training either before enlistment or immediately after enlistment;

(2) using civilian institutions of higher education and vocational schools to provide such training; and

(3) using civilian institutions of higher education and vocational schools to provide training in individual technical skills for members of the reserve components.

(b) MATTERS TO BE INCLUDED IN REPORT.—The report required by subsection (a) shall include the following:

(1) A comparison of (A) technical skills training provided by the Armed Forces, with (B) technical skills training available in civilian institutions of higher education and vocational schools.

(2) A description of a program by which a person eligible for enlistment in the Armed Forces would receive technical training in, or under contract with, an institution of higher education or vocational school (and a stipend to pursue such training) (A) before enlistment in exchange for a commitment to serve in the Armed Forces, or (B) immediately after basic training.

(3) A description of any personnel savings and other savings that could result from the implementation of such a program.

(4) A description of a program by which institutions of higher education and vocational schools would enhance the readiness of the reserve components by supplementing active-duty individual skills training.

(5) A description of the specific training improvements, if any, that could result from the implementation of such a program.

(6) A description of a demonstration project to test such a program, on a limited basis as determined in consultation with the Secretary of Defense, together with a description of the cost of such demonstration project.

(c) SUBMISSION OF REPORT.—The Comptroller General shall submit the report required by subsection (a) to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1991.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "technical training" means training in noncombat skills in technical fields, including electricity, machinery, welding, surveying, journalism, and photography.

(2) The terms "institution of higher education" and "vocational school" have the meanings given those terms in section 435 of the Higher Education Act of 1965 (20 U.S.C. 1085).

SEC. 518. PROVISION OF OFF-DUTY POSTSECONDARY EDUCATION SERVICES OVERSEAS

Section 1212 of the Department of Defense Authorization Act, 1986 (10 U.S.C. 113 note), is amended—

(1) by striking out subsections (c) and (e); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c)(1) The Secretary of Defense shall conduct a study to determine the current and future needs of members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees for postsecondary education services at overseas locations. The Secretary shall determine on the basis of the results of that study whether the policies and procedures of the Department in effect on the date of the enactment of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991 with respect to the procurement of such services are—

"(A) consistent with the provisions of subsections (a) and (b);

"(B) adequate to ensure the recipients of such services the benefit of a choice in the offering of such services; and

"(C) adequate to ensure that persons stationed at geographically isolated military installations or at installations with small complements of military personnel are adequately served.

The Secretary shall complete the study in such time as necessary to enable the Secretary to submit the report required by paragraph (2)(A) by the deadline specified in that paragraph.

Reports.

"(2)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study referred to in paragraph (1), together with a copy of any revisions in policies and procedures made as a result of such study. The report shall be submitted not later than March 1, 1990.

"(B) The Secretary shall include in the report an explanation of how determinations are made with regard to—

"(i) affording members, employees, and dependents a choice in the offering of courses of postsecondary education; and

"(ii) whether the services provided under a contract for such services should be limited to an installation, theater, or other geographic area.

"(3)(A) Except as provided in subparagraph (B), no contract for the provision of services referred to in subsection (a) may be awarded, and no contract or agreement entered into before the date of the enactment of this paragraph may be renewed or extended on or after such date, until the end of the 60-day period beginning on the date on which the report referred to in paragraph (2)(A) is received by the committees named in that paragraph.

"(B) A contract or an agreement in effect on October 1, 1989, for the provision of postsecondary education services in the European Theater for members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees may be renewed or extended without regard to the limitation in subparagraph (A).

"(C) In the case of a contract for services with respect to which a solicitation is pending on the date of the enactment of this paragraph, the contract may be awarded—

"(i) on the basis of the solicitation as issued before the date of the enactment of this paragraph;

"(ii) on the basis of the solicitation issued before the date of the enactment of this paragraph modified so as to conform to any changes in policies and procedures the Secretary determines should be made as a result of the study required under paragraph (1); or

"(iii) on the basis of a new solicitation.".

SEC. 519. MATTERS TO BE CONSIDERED BY PROMOTION BOARDS IN CASE OF OFFICERS IN HEALTH PROFESSIONS COMPETITIVE CATEGORIES

Section 615 of title 10, United States Code, is amended by adding at the end the following new subsection:

Regulations.

"(d) The Secretary of each military department, under uniform regulations prescribed by the Secretary of Defense, shall include in guidelines furnished to a selection board convened under section 611(a) of this title that is considering officers in a health-professions competitive category for promotion to a grade below colonel or, in the case of the Navy, captain, a direction that the board give consideration to an officer's clinical proficiency and skill as a health professional to at least as great an extent as the board gives to the officer's administrative and management skills.".

SEC. 520. REPORT ON CONSTRUCTIVE CREDIT FOR NURSES

(a) Report Requirement.—The Secretary of Defense shall prepare a report on the awarding of constructive credit to military nurses for education, training, or experience. The report shall discuss existing provisions of law providing for such constructive credit, including a discussion of any inequities which the Secretary considers that such provisions may have created. If the Secretary determines that any such inequities have been created, the report shall include recommendations by the Secretary for ways to eliminate or reduce those inequities.

(b) Submission of Report.—The report required by subsection (a) shall be submitted to the Committees on Armed Services of the Senate and House of Representatives not later than March 1, 1990.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Part A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1990

37 USC 1009 note.

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1990 shall not be made.

37 USC 1009 note.

(b) Increase in Basic Pay, BAS, and BAQ.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.6 percent effective on January 1, 1990.

(c) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective on January 1, 1990, section 203(c)(1) of title 37, United States Code, is amended by striking out "$525" and inserting in lieu thereof "$543.90". Effective date.

SEC. 602. LIMITATION ON ADJUSTMENTS IN VARIABLE HOUSING ALLOWANCE

(a) LIMITATION.—Section 403a(c)(2) of title 37, United States Code, is amended by inserting before the period the following: ", except that the monthly amount of a variable housing allowance for a member may not be reduced to the extent that the total of basic pay, basic allowance for quarters, basic allowance for subsistence, and variable housing allowance of the member is reduced, as a result of such a reduction, below the monthly total of those items for the month preceding the effective date of the most recent increase in the rate of basic pay of the member".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1990. 37 USC 403a note.

PART B—BONUSES AND SPECIAL AND INCENTIVE PAY

SEC. 611. INCREASE IN SELECTIVE REENLISTMENT BONUS

(a) INCREASE IN SELECTIVE REENLISTMENT BONUS.—Section 308(a) of title 37, United States Code, is amended—

(1) by striking out "paid a bonus," in paragraph (1) and all that follows in that paragraph and inserting in lieu thereof "paid a bonus as provided in paragraph (2).";

(2) by redesignating paragraph (2) as paragraph (4) and in that paragraph striking out "of this subsection"; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) The bonus to be paid under paragraph (1) may not exceed the lesser of the following amounts:

"(A) The amount equal to the product of—

"(i) ten times the monthly rate of basic pay to which the member was entitled at the time of the discharge or release of the member; and

"(ii) the number of years (or the monthly fractions thereof) of the term of reenlistment or extension of enlistment, not to exceed six.

"(B) $45,000.

"(3) Any portion of a term of reenlistment or extension of enlistment of a member that, when added to the total years of service of the member at the time of discharge or release, exceeds 16 years may not be used in computing a bonus under paragraph (2)(A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reenlistment and extension of enlistment agreements entered into under section 308(a) of title 37, United States Code, after September 30, 1989. 37 USC 308 note.

SEC. 612. ENLISTMENT BONUS FOR MEMBERS IN SKILLS DESIGNATED AS CRITICAL

(a) INCREASE IN AUTHORIZED BONUS AND FIRST INSTALLMENT.—Section 308a(a) of title 37, United States Code, is amended—

(1) by striking out "$8,000" in the first sentence and inserting in lieu thereof "$12,000"; and

(2) by striking out "$5,000" in the second sentence and inserting in lieu thereof "$7,000".

37 USC 308a note.

(b) LIMITATION ON PAYMENTS.—The total amount of payments made during fiscal year 1990 under section 308a(a) of title 37, United States Code, by the Secretary of the Army may not exceed $66,400,000.

37 USC 308a note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to an enlistment or extension of an initial period of active duty (in a skill designated as critical) entered into on or after October 1, 1989.

SEC. 613. EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES

Sections 308b(g), 308c(f), 308e(e), 308g(h), 308h(g), and 308i(i) of title 37, United States Code, are amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

SEC. 614. EXTENSION OF SPECIAL PAY PROGRAMS FOR NUCLEAR-QUALIFIED OFFICERS

(a) SPECIAL PAY FOR OFFICERS EXTENDING PERIOD OF ACTIVE DUTY.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1995".

(b) ACCESSION BONUS.—Section 312b(d) of such title is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1995".

(c) ANNUAL INCENTIVE BONUS.—Section 312c of such title is amended—

(1) by striking out "ending before October 1, 1990" in subsections (a)(1) and (b)(1); and

(2) by striking out "October 1, 1990" in subsection (e) and inserting in lieu thereof "October 1, 1995".

PART C—TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 621. REIMBURSEMENT FOR CERTAIN FEES INCURRED IN TRAVEL

(a) REIMBURSEMENT AUTHORIZED.—Section 404 of title 37, United States Code, is amended by adding at the end the following new subsection:

Regulations.

"(i) Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) is entitled to reimbursement for parking fees, ferry fares, and bridge, road, and tunnel tolls actually incurred incident to such travel.".

37 USC 404 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to travel and transportation commenced after the date of the enactment of this Act.

SEC. 622. LUMP-SUM PAYMENT OF OVERSEAS HOUSING COSTS

(a) PAYMENTS AUTHORIZED.—Section 405 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(d) In the case of a member of the uniformed services authorized to receive a per diem allowance under subsection (a), the Secretary concerned may make a lump-sum payment for nonrecurring expenses incurred by the member in occupying private housing outside of the United States. Expenses for which payments are made under this subsection may not be considered for purposes of determining the per diem allowance of the member under subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to expenses incurred after August 31, 1990. 37 USC 405 note.

SEC. 623. CLARIFICATION OF ALLOWANCE FOR TRANSPORTATION OF HOUSEHOLD EFFECTS

(a) WAIVER FOR SUBSTANTIAL HARDSHIP.—Section 406(b)(1) of title 37, United States Code, is amended by adding at the end the following new subparagraph:

"(D) In connection with the change of temporary or permanent station of a member in a pay grade below pay grade O-6, the Secretary concerned may authorize a higher weight allowance than the weight allowance determined under subparagraph (C) for the member if the Secretary concerned determines that the application of the weight allowance determined under such subparagraph would result in significant hardship to the member or the dependents of the member. An increase in weight allowance under this subparagraph may not result in a weight allowance exceeding the weight allowance specified in subparagraph (C) for pay grades O-6 to O-10. The Secretary of Defense shall prescribe regulations to carry out this subparagraph.". Regulations.

(b) TECHNICAL AMENDMENT.—Subparagraph (C) of such section is amended by inserting "in pounds" after "weight allowance" in the matter preceding the table.

(c) EFFECTIVE DATE.—The authority provided in subparagraph (D), as added by subsection (a), shall apply with respect to the transportation of baggage and household effects occurring after June 30, 1989. 37 USC 406 note.

SEC. 624. TRAVEL ENTITLEMENT FOR MEMBERS ASSIGNED TO A VESSEL UNDER CONSTRUCTION

(a) AUTHORIZATION FOR TRAVEL ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by inserting after section 406b the following new section:

"§ 406c. Travel and transportation allowances: members assigned to a vessel under construction

"(a) ALLOWANCE AUTHORIZED.—(1) Under regulations prescribed by the Secretary concerned, a member of the uniformed services who is assigned to permanent duty aboard a ship that is under construction at a location other than— Regulations.

"(A) the designated home port of the ship; or

"(B) the area where the dependents of the member are residing,

is entitled to transportation, or an allowance for transportation under section 404(d)(3) of this title, for round-trip travel from the port of construction to either of those locations as provided in paragraph (2).

"(2) A member referred to in paragraph (1) shall be entitled to such transportation or allowance on or after the thirty-first day (and every sixtieth day after the thirty-first day) after the later of—

"(A) the date on which the ship enters the construction port; and

"(B) the date on which the member becomes permanently assigned to the ship.

"(3) The amount of reimbursement for personally procured transportation or the allowance for transportation under this subsection may not exceed the cost of Government-procured commercial round-trip air travel.

"(b) DEPENDENTS TRAVEL.—(1) In lieu of the entitlement of a member of the uniformed services to transportation under subsection (a), the Secretary concerned may provide transportation in kind, reimbursement for personally procured transportation, or a monetary allowance in place of the cost of transportation as provided in section 404(d)(1) of this title for the travel of the dependents of the member from the location that was the home port of the ship before commencement of construction to the port of construction.

"(2) The total reimbursement for transportation for the member's dependents under paragraph (1) may not exceed the cost of Government-procured commercial round-trip travel.

"(c) CHANGE OF HOME PORT.—In any case in which a member of the uniformed services assigned to permanent duty aboard a ship that undergoes a change of home port to the port at which the ship is being constructed, the dependents of such member may be provided the transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.

"(d) APPLICATION OF OTHER LAW.—Section 420 of this title does not apply with respect to transportation or allowances provided under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 406b the following new item:

"406c. Travel and transportation allowances: members assigned to a vessel under construction.".

(b) CLARIFYING AMENDMENT.—Subsection (c) of section 406b of such title is amended to read as follows:

"(c) In any case in which a member of the uniformed services is assigned to permanent duty aboard a ship that undergoes a change of home port to the overhaul or inactivation port, the dependents of the member may be provided transportation allowances prescribed in subsections (a) and (b) in lieu of the transportation authorized by section 406 of this title and section 2634 of title 10.".

SEC. 625. STUDENT TRAVEL AUTHORIZED FOR DEPENDENTS OF MEMBERS IN ALASKA AND HAWAII

(a) AUTHORIZATION FOR DEPENDENT CHILDREN.—Section 430 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "United States" in paragraphs (1) and (3) and inserting in lieu thereof "continental United States"; and

(B) by striking out "oversea" in paragraph (2);

(2) in subsection (b)—

(A) by striking out "United States" each place it appears and inserting in lieu thereof "continental United States"; and

(B) by striking out "in the oversea area" and inserting in lieu thereof "outside the continental United States"; and

(3) by adding at the end the following new subsections:

"(d) For a member assigned to duty outside the continental United States, transportation under this section may be provided a dependent child as described in subsection (a)(3) who is attending a school in Alaska or Hawaii.

"(e) The transportation allowance authorized by this section (whether transportation in kind or reimbursement) may not be paid in the case of a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of the permanent duty station.

"(f) In this section, the term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to travel and transportation commenced after the date of the enactment of this Act.

37 USC 440 note.

PART D—MILITARY AVIATORS

SEC. 631. AVIATION CAREER INCENTIVE PAY

(a) ENTITLEMENT REQUIREMENTS.—Subsection (a)(4) of section 301a of title 37, United States Code, is amended—

(1) by striking out "6 of the first 12, and 11 of the first 18 years of his aviation service." in the first sentence and inserting in lieu thereof "9 of the first 12, and 12 of the first 18 years of the aviation service of the officer.";

(2) by striking out "at least 9 but less than 11 of the first 18 years of his aviation service, he" in the second sentence and inserting in lieu thereof "at least 10 but less than 12 of the first 18 years of the aviation service of the officer, the officer"; and

(3) by striking out "his officer service" in the second sentence and inserting in lieu thereof "the officer's service as an officer".

(b) WAIVER OF ENTITLEMENT REQUIREMENTS BY THE SECRETARY CONCERNED.—Subsection (a)(5) of such section is amended by inserting after the first sentence the following new sentence: "For the needs of the service, the Secretary concerned may permit, on a case by case basis, an officer to continue to receive continuous monthly incentive pay despite the failure of the officer to perform the prescribed operational flying duty requirements during the prescribed periods of time so long as the officer has performed those requirements for not less than 6 years of aviation service.".

(c) MONTHLY RATES.—(1) Subsection (b)(1) of such section is amended—

(A) by striking out "400" in the portion of the table designated as Phase I and inserting in lieu thereof "650"; and

(B) by striking out the portion of the table designated as Phase II and inserting in lieu thereof the following:

"Phase II

"Years of service as an officer:	Monthly rate:
Over 18	$585
Over 20	495
Over 22	385
Over 25	250".

(2) Subsection (b)(2) of such section is amended by striking out "400" in the table and inserting in lieu thereof "650".

(d) REPORT ON NUMBER OF OFFICERS RECEIVING A WAIVER.—Such section is further amended by adding at the end the following new subsection:

"(f) The Secretary of Defense shall submit annually to Congress a report specifying for the year covered by the report—

"(1) the total number of officers who were determined under subsection (a)(5) to have failed to perform the minimum prescribed operational flying duty requirements;

"(2) the number of those officers who continued to receive continuous monthly incentive pay despite their failure to perform the minimum prescribed operational flying duty requirements and the extent to which they failed to perform those requirements; and

"(3) the reasons for the exercise of the authority under the second sentence of subsection (a)(5) in the case of each officer specified pursuant to paragraph (2).".

37 USC 301a note.

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made—

(A) by subsection (c) shall take effect on the date of the enactment of this Act; and

(B) by subsections (a), (b), and (d) shall take effect on October 1, 1991.

(2) The Secretary of a military department may delay, subject to the approval of the Secretary of Defense, the implementation of the amendments made by subsection (c) with respect to the department of that Secretary until such time as the Secretary concerned determines that implementation of those amendments is necessary to meet the needs of that department.

(3) If the Secretary of a military department delays under paragraph (2) the implementation of the amendments made by subsection (c) beyond October 1, 1991, the Secretary may also delay implementation of the amendments made by subsections (a), (b), and (d) until the date on which the Secretary implements the amendments made by subsection (c). During the delay in implementation, the provisions of section 301a of title 37, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply in the case of such department to the payment of aviation career incentive pay under such section.

37 USC 301a note.

(f) TRANSITION.—(1) An officer of a uniformed service who, as of the date the amendments made by subsections (a), (b), and (d) take effect with regard to the officer's uniformed service—

(A) has completed years of aviation service in an amount equal to one of the number of years of aviation service specified in column 1 of the following table; and

(B) has performed, or subsequently performs, the prescribed operational flying duties (including flight training but excluding proficiency flying) during the number of years of aviation service specified in column 2 of such table and corresponding to the number of years of aviation service applicable to the officer under column 1,

shall be entitled to continuous monthly incentive pay at the rates provided in section 301a(b) of title 37, United States Code (as amended by this section) until the officer completes the years of service as an officer specified in column 3 of such table and applicable to the officer.

TABLE

COLUMN 1	COLUMN 2	COLUMN 3
Number of years of aviation service	Number of years performing operational flying duty	Entitlement to continuous monthly incentive pay through the following year of officer service
6 or more	At least 6 of the first 12 years of aviation service	18
6 or more	At least 9 but less than 11 of the first 18 years of aviation service	22
6 or more	At least 6 of the first 12 and at least 11 of the first 18 years of aviation service	25
At least 6 but less than 12	Less than 6 and subsequently completes 6 of the first 12 and 9 of the first 15 years of aviation service	18
At least 12 but less than 18	Less than 9 and subsequently completes 9 of the first 18 years of aviation service	22
At least 12 but less than 18	Less than 11 and subsequently completes 11 of the first 18 years of aviation service	25

(2) For purposes of this subsection, the terms "operational flying duty" and "proficiency flying duty" have the meaning given to such terms in section 301a(a)(6) of title 37, United States Code.

SEC. 632. AVIATOR RETENTION BONUSES

(a) EXTENSION AND CODIFICATION OF CURRENT PROGRAM.—Section 301b of title 37, United States Code, is amended to read as follows:

"§ 301b. Special pay: aviation career officers extending period of active duty

"(a) BONUS AUTHORIZED.—An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on September 30, 1991, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

"(b) COVERED OFFICERS.—An aviation officer referred to in subsection (a) is an officer of a uniformed service who—

"(1) is entitled to aviation career incentive pay under section 301a of this title;

"(2) is in an aviation specialty designated by the Secretary concerned (with the approval of the Secretary of Defense in the case of the Secretary of a military department) as a critical aviation specialty;

"(3) is in a pay grade below pay grade 0-6;

"(4) is qualified to perform operational flying duty;

"(5) has completed at least six but less than 13 years of active duty; and

"(6) has completed any active duty service commitment incurred for undergraduate aviator training.

"(c) Amount of Bonus.—The amount of a retention bonus paid under this section may not be more than—

"(1) $12,000 for each year covered by the written agreement, if the officer agrees to remain on active duty to complete 14 years of commissioned service; or

"(2) $6,000 for each year covered by the written agreement, if the officer agrees to remain on active duty for one or two years.

"(d) Proration.—The term of an agreement under subsection (a) and the amount of the bonus under subsection (c) may be prorated as long as such agreement does not extend beyond the date on which the officer making such agreement would complete 14 years of commissioned service.

"(e) Payment of Bonus.—Upon the acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid by the Secretary in either a lump sum or installments.

"(f) Additional Pay.—A retention bonus paid under this section is in addition to any other pay and allowances to which an officer is entitled.

"(g) Repayment of Bonus.—(1) If an officer who has entered into a written agreement under subsection (a) and has received all or part of a retention bonus under this section fails to complete the total period of active duty specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after January 1, 1989.

"(h) Regulations.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

"(i) Reports.—(1) Not later than February 15 of each year, the Secretaries concerned shall submit to the Secretary of Defense a report analyzing the effect of the provision of retention bonuses to aviation officers during the preceding fiscal year on the retention of qualified aviators. Each report shall include—

"(A) a comparison of the cost of paying bonuses to officers who enter into an agreement for the period referred to in subsection (c)(1) with the cost of paying bonuses to officers who enter into an agreement for a period referred to in subsection (c)(2);

"(B) a description of the increase in the retention of qualified aviators as a result of the program; and

"(C) an examination of the desirability of targeting the retention bonus program toward officers in a critical aviation specialty rather than on the basis of experience or other criteria.

"(2) Not later than March 15 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives copies of the reports submitted to the Secretary under paragraph (1) with regard to the preceding fiscal year, together with such comments and recommendations as the Secretary considers appropriate.

"(j) LIMITATION ON PAYMENTS FOR FISCAL YEAR 1990.—(1) The total amount of payments made under this section to officers of the Air Force during fiscal year 1990 may not exceed $78,000,000.

"(2) The total amount of payments made under this section to officers of the Navy during fiscal year 1990 may not exceed $30,000,000.

"(k) DEFINITIONS.—In this section:

"(1) The term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).

"(2) The term 'aviation specialty' means a community of pilots identified by type of aircraft or weapon system or a community of other designated aeronautical officers so identified.

"(3) The term 'critical aviation specialty' means an aviation specialty in which there exists a shortage of officers on the date of designation under subsection (b).

"(4) The term 'operational flying duty' has the meaning given such term in section 301a(a)(6)(A) of this title.".

(b) CONFORMING AMENDMENT.—Section 611 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1977), is amended by striking out subsection (e).

37 USC 301b note.

(c) AGREEMENTS ENTERED INTO UNDER THE FORMER LAW.—(1) The amendment made by subsection (a) shall not affect an agreement entered into under section 301b of title 37, United States Code (as in effect on September 30, 1989), and, except as provided in paragraph (2), the provisions of such section as in effect on such day shall continue to apply with respect to such agreement.

(2) For pay periods beginning after September 30, 1989, an officer serving under an agreement entered into under section 301b of such title before October 1, 1987, shall be entitled during the remainder of the agreement to the monthly rate of aviation career incentive pay specified in section 301a(b) of such title and corresponding to the officer's years of aviation service or years of service as an officer.

37 USC 301b note.

(d) COVERAGE OF PERIOD OF LAPSED AUTHORITY.—(1) In the case of an aviation officer described in paragraph (2) who executes an agreement under section 301b of title 37, United States Code, during the 90-day period beginning on the date of the enactment of this Act, the Secretary concerned may deem such agreement to have been executed and accepted for purposes of such section on the first date on which the officer would have qualified for such an agreement had the amendment made by subsection (a) taken effect on October 1, 1989.

(2) An aviation officer referred to in paragraph (1) is an officer who, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section had the amendment made by subsection (a) taken effect on October 1, 1989.

(3) For purposes of this subsection, the term "Secretary concerned" has the meaning given that term by section 101(5) of title 37, United States Code.

SEC. 633. REDUCTION IN NONOPERATIONAL FLYING DUTY POSITIONS

(a) REDUCTIONS REQUIRED.—(1) Not later than September 30, 1991, the Secretary of Defense shall reduce the number of nonoperational flying duty positions in the Armed Forces to a number equal to not more than 98 percent of the total number of such positions in existence on September 30, 1989.

(2) Not later than September 30, 1992, the Secretary of Defense shall reduce the number of nonoperational flying duty positions in the Armed Forces to a number equal to not more than 95 percent of the total number of such positions in existence on September 30, 1989.

(b) LIMITATION ON INCREASES IN NONOPERATIONAL FLYING DUTY POSITIONS.—No increase in the number of nonoperational flying duty positions in the Armed Forces (as a percentage of all flying duty positions in the Armed Forces) may be made after September 30, 1992, unless the increase is specifically authorized by law.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "Armed Forces" does not include the Coast Guard.

(2) The term "nonoperational flying duty position" means a position in a military department identified by the Secretary of that department as a position that—

(A) requires the assignment of an aviator; and

(B) does not include operational flying duty (as defined in section 301a(6)(A) of title 37, United States Code).

SEC. 634. MINIMUM SERVICE REQUIREMENT FOR AVIATORS

(a) IN GENERAL.—(1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 653. Minimum service requirement for certain flight crew positions

"(a) PILOTS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a pilot shall be 8 years, if the member is trained to fly fixed-wing jet aircraft, and 6 years, if the member is trained to fly any other type of aircraft.

"(b) NAVIGATORS AND NAVAL FLIGHT OFFICERS.—The minimum active duty obligation of any member who successfully completes training in the armed forces as a navigator or naval flight officer shall be 6 years.

"(c) DEFINITION.—In this section, the term 'active duty obligation' means the period of active duty required to be served after—

"(1) completion of undergraduate pilot training in the case of training as a pilot;

"(2) completion of undergraduate navigator training in the case of training as a navigator; or

"(3) completion of undergraduate training as a naval flight officer in the case of training as a naval flight officer.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"653. Minimum service requirement for certain flight crew positions.".

10 USC 653 note. (b) EFFECTIVE DATE.—(1) Except as provided in paragraphs (2) and (3), section 653 of title 10, United States Code, as added by subsection (a)(1), shall apply to persons who begin undergraduate pilot training, undergraduate navigator training, or undergraduate naval flight officer training, as the case may be, after September 30, 1990.

(2) Such section shall apply to persons who graduate from the United States Military Academy, the United States Naval Academy,

the United States Air Force Academy, and the Coast Guard Academy after December 31, 1991, and to persons who satisfactorily complete the academic and military requirements of the Senior Reserve Officers' Training Corps program (provided for in chapter 103 of title 10, United States Code) after December 31, 1991.

(3) The minimum service requirements provided for such section shall not apply in the case of any person who entered into an agreement with the Secretary concerned before October 1, 1990, and who is obligated under the terms of such agreement to serve on active duty for a period less than the applicable period specified in section 653 of such title.

(4) For purposes of this subsection, the term "Secretary concerned" has the meaning given that term in section 101(8) of title 10, United States Code.

SEC. 635. REPORT ON LIFE INSURANCE

(a) Report Required.—Not later than November 15, 1990, the Secretary of Defense shall submit to the Congress a report evaluating the adequacy of the current Servicemen's Group Life Insurance program and the practicability and desirability of providing an accidental death insurance plan for aviators and other aviation crew members serving on active duty that provides for the payment of death benefits in the amount of $100,000 for death resulting directly from the performance of operational flying duty. The report shall include a legislative proposal containing the recommendations of the Secretary following such evaluation and a recommendation on the advisability of providing an accidental death insurance plan for other members of the Armed Forces on active duty in an occupational specialty characterized as hazardous.

(b) Definition.—For purposes of subsection (a), the term "operational flying duty" has the meaning given to that term in section 301a(a)(6)(A) of title 37, United States Code.

SEC. 636. REPORT ON AVIATOR ASSIGNMENT POLICIES AND PRACTICES

Not later than September 15, 1990, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating the aviator assignment policies and practices of the Armed Forces. The report shall include an analysis of the effectiveness and efficiency of the aviator assignment policies and practices of the Armed Forces, including an analysis of the policies and practices followed in accommodating the assignment preferences of aviators within operational needs of the Armed Forces.

SEC. 637. SENSE OF CONGRESS REGARDING ESTABLISHMENT OF COMMISSION TO CONDUCT A STUDY ON THE NATIONAL SHORTAGE OF AVIATORS

(a) Establishment of Commission.—In view of the critical shortage of qualified aviators in both the Armed Forces and in the commercial airline industry of the United States, it is the sense of Congress that the President should establish a commission to study the reasons for such shortages and to consider effective and practicable means of eliminating the shortages.

(b) Members of the Commission.—A commission established by the President pursuant to subsection (a) should include as members—

(1) representatives from the commercial airline industry;

(2) representatives from the commercial and general aviation pilots organizations;

(3) representatives from the Department of Defense;

(4) representatives from the Department of Transportation; and

(5) representatives from such other sources as the President considers appropriate.

(c) Time of Appointment.—The President should appoint all members of the commission not later than February 15, 1990.

(d) Report.—The commission should submit a report on the results of its study to the President and Congress not later than March 1, 1991, together with specific recommendations for eliminating the shortage of aviators in the United States.

Part E—Montgomery GI Bill Amendments

SEC. 641. INCREASE IN AMOUNT PAYABLE UNDER MONTGOMERY GI BILL FOR CRITICAL SPECIALTIES

Section 1415(c) of title 38, United States Code, is amended by striking out "$400 per month" and inserting in lieu thereof "$400 per month, in the case of an individual who first became a member of the Armed Forces before the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991, or $700 per month, in the case of an individual who first became a member of the Armed Forces on or after that date".

SEC. 642. PAYMENTS FOR VOCATIONAL-TECHNICAL TRAINING UNDER RESERVE-COMPONENT GI BILL

(a) In General.—Section 2131(c)(1) of title 10, United States Code, is amended to read as follows:

"(c)(1) Educational assistance may be provided under this chapter for pursuit of any program of education that is an approved program of education for purposes of chapter 30 of title 38 other than a program of education in a course of instruction beyond the baccalaureate degree level.".

(b) Amount of Assistance.—Section 2131 of such title is amended—

(1) in subsection (b)—

(A) by striking out "Each" and inserting in lieu thereof "Except as provided in subsections (d) through (f), each"; and

(B) by inserting ", through the Secretary of Veterans Affairs," after "Secretary concerned"; and

(2) by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), the amount of the monthly educational assistance allowance payable to a person pursuing a full-time program of apprenticeship or other on-the-job training under this chapter is—

"(A) for each of the first six months of the person's pursuit of such program, 75 percent of the monthly educational assistance allowance otherwise payable to such person under this chapter;

"(B) for each of the second six months of the person's pursuit of such program, 55 percent of such monthly educational assistance allowance; and

"(C) for each of the months following the first 12 months of the person's pursuit of such program, 35 percent of such monthly educational assistance allowance.

"(2) In any month in which any person pursuing a program of education consisting of a program of apprenticeship or other on-the-job training fails to complete 120 hours of training, the amount of the monthly educational assistance allowance payable under this chapter to the person shall be limited to the same proportion of the applicable full-time rate as the number of hours worked during such month, rounded to the nearest 8 hours, bears to 120 hours.

"(3)(A) Except as provided in subparagraph (B), for each month that such person is paid a monthly educational assistance allowance under this chapter, the person's entitlement under this chapter shall be charged at the rate of—

"(i) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A);

"(ii) 55 percent of a month in the case of payments made in accordance with paragraph (1)(B); and

"(iii) 35 percent of a month in the case of payments made in accordance with paragraph (1)(C).

"(B) Any such charge to the entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).

"(e)(1) The amount of the monthly educational assistance allowance payable to a person pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such person under this chapter.

"(2) For each month that a person is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the person's entitlement under this chapter shall be charged at the rate of 80 percent of a month.

"(f)(1)(A) The amount of the educational assistance allowance payable under this chapter to a person who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such person.

"(B) For purposes of subparagraph (A), the term 'established charge' means the lesser of—

"(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

"(ii) the actual charge to the person for such course or courses.

"(C) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the person and serviced by the institution.

"(2) In each case in which the amount of educational assistance is determined under paragraph (1), the period of entitlement of the person concerned shall be charged with one month for each $140 which is paid to the individual as an educational assistance allowance.".

(c) CONFORMING AMENDMENTS.—Section 2136(b) of such title is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "Except as otherwise provided in this chapter, the provisions of sections 1434(b), 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(c), 1780(g), 1786(a), 1787, and 1792)

shall be applicable to the provision of educational assistance under this chapter."; and

(2) by striking out ", as used" in the second sentence and inserting in lieu thereof "and the term 'a person', as used".

10 USC 2131 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any person who after September 30, 1990, meets the requirements set forth in subparagraph (A) or (B) of section 2132(a)(1) of title 10, United States Code.

SEC. 643. LIMITATION OF ACTIVE GUARD AND RESERVE PERSONNEL TO ACTIVE-DUTY PROGRAM

(a) LIMITATION.—Section 2132(d) of title 10, United States Code, is amended by adding at the end the following new sentence: "However, a person may not receive credit under the program established by this chapter for service (in any grade) on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components in a position which is included in the end strength required to be authorized each year by section 115(b)(1)(A)(ii) of this title.".

10 USC 2131 note.

(b) SAVINGS PROVISION.—The amendment made by subsection (a) shall not affect the eligibility for educational assistance of any person who before the date of the enactment of this Act is entitled to educational assistance under section 2131(a) of title 10, United States Code.

SEC. 644. REPORT ON IMPOSITION OF CONTRIBUTION REQUIREMENT FOR PARTICIPATION IN CHAPTER 106 PROGRAM

Not later than March 15, 1990, the Secretary of Defense shall submit to Congress a report setting forth the views of the Secretary on the desirability and the practicability of requiring members of the reserve components, as a condition of participating in the educational assistance program under chapter 106 of title 10, United States Code, to sustain a reduction in pay in the same manner as applies to members of the Armed Forces on active duty who participate in the educational assistance program under chapter 30 of title 38, United States Code.

SEC. 645. TECHNICAL AMENDMENTS

(a) REFERENCES TO ADMINISTRATOR OF VETERANS' AFFAIRS.—Chapter 106 of title 10, United States Code, is amended—

(1) by striking out "Administrator of Veterans' Affairs" in sections 2131(b)(4), 2132(c), 2132(d), and 2136(a) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(2) by striking out "to the Administrator" in section 2132(c) and inserting in lieu thereof "to that Secretary".

(b) OTHER TECHNICAL AMENDMENTS.—(1) Section 2131(b) of such title is amended by striking out "and educational" in the matter preceding paragraph (1) and inserting in lieu thereof "of an educational".

(2) Section 2132(d) of such title is amended by striking out "An individual" and inserting in lieu thereof "A person".

PART F—PERSONNEL AND COMPENSATION TECHNICAL AMENDMENTS

SEC. 651. TECHNICAL AMENDMENTS TO MILITARY RETIREMENT LAWS

(a) CLARIFICATION OF COMPUTATION OF RETIRED PAY UNDER HIGH-THREE SYSTEM.—Section 1407 of title 10, United States Code, is amended—

(1) in subsection (b), by inserting "or (d)" after "subsection (c)";

(2) by striking out subsections (c), (e), (f) and (g);

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (b) the following new subsections (c) and (d):

"(c) COMPUTATION OF HIGH-THREE AVERAGE FOR MEMBERS ENTITLED TO RETIRED OR RETAINER PAY FOR REGULAR SERVICE.—

"(1) GENERAL RULE.—The high-three average of a member entitled to retired or retainer pay under any provision of law other than section 1204 or 1205 or section 1331 of this title is the amount equal to—

"(A) the total amount of monthly basic pay to which the member was entitled for the 36 months (whether or not consecutive) out of all the months of active service of the member for which the monthly basic pay to which the member was entitled was the highest, divided by

"(B) 36.

"(2) SPECIAL RULE FOR SHORT-TERM DISABILITY RETIREES.—In the case of a member who is entitled to retired pay under section 1201 or 1202 of this title and who has completed less than 36 months of active service, the member's high-three average (notwithstanding paragraph (1)) is the amount equal to—

"(A) the total amount of basic pay to which the member was entitled during the period of the member's active service, divided by

"(B) the number of months (including any fraction thereof) of the member's active service.

"(d) COMPUTATION OF HIGH-THREE AVERAGE FOR MEMBERS AND FORMER MEMBERS ENTITLED TO RETIRED PAY FOR NONREGULAR SERVICE.—

"(1) RETIRED PAY UNDER CHAPTER 67.—The high-three average of a member or former member entitled to retired pay under section 1331 of this title is the amount equal to—

"(A) the total amount of monthly basic pay to which the member or former member was entitled during the member or former member's high-36 months (or to which the member or former member would have been entitled if the member or former member had served on active duty during the entire period of the member or former member's high-36 months), divided by

"(B) 36.

"(2) NONREGULAR SERVICE DISABILITY RETIRED PAY.—The high-three average of a member entitled to retired pay under section 1204 or 1205 of this title is the amount equal to—

"(A) the total amount of monthly basic pay to which the member was entitled during the member's high-36 months (or to which the member would have been entitled if the member had served on active duty during the entire period of the member's high-36 months), divided by

"(B) 36.

"(3) SPECIAL RULE FOR SHORT-TERM DISABILITY RETIREES.—In the case of a member who is entitled to retired pay under section 1204 or 1205 of this title and who was a member for less than 36 months before being retired under that section, the member's high-three average (notwithstanding paragraph (2)) is the amount equal to—

"(A) the total amount of basic pay to which the member was entitled during the entire period the member was a member of a uniformed service before being so retired (or to which the member would have been entitled if the member had served on active duty during the entire period the member was a member of a uniformed service before being so retired), divided by

"(B) the number of months (including any fraction thereof) which the member was a member before being so retired.

"(4) HIGH-36 MONTHS.—The high-36 months of a member or former member whose retired pay is covered by paragraph (1) or (2) are the 36 months (whether or not consecutive) out of all the months before the member or former member became entitled to retired pay for which the monthly basic pay to which the member or former member was entitled (or would have been entitled if serving on active duty during those months) was the highest. In the case of a former member, only months during which the former member was a member of a uniformed service may be used for purposes of the preceding sentence.".

(b) CLARIFICATION OF APPLICABILITY OF PROVISIONS TO FORMER MEMBERS ENTITLED TO RETIRED PAY.—Chapter 71 of title 10, United States Code, is amended as follows:

(1) Section 1401a is amended—

(A) in subsection (b)(3), by inserting "and former member" after "member" the first place it appears;

(B) in subsection (e), by inserting "or former member" after "member" the first and third places it appears; and

(C) in subsection (f), by inserting "or former member" in the second sentence after "member".

(2) Section 1407(b) is amended by striking out "member" and "member's" and inserting in lieu thereof "person" and "person's", respectively.

(3) Section 1409(a)(1) is amended by striking out "who is retired" and inserting in lieu thereof "who is entitled to that pay".

(4) Section 1410 is amended—

(A) in the matter preceding paragraph (1), by inserting "or former member" after "member" each place (other than the second place) it appears; and

(B) in paragraph (1), by striking out "member's retired pay" and inserting in lieu thereof "retired pay of the member or former member".

(c) PAYMENTS FROM MILITARY RETIREMENT FUND.—Section 1463(a) of such title is amended—

(1) in paragraph (1), by striking out "persons" and inserting in lieu thereof "members";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) retired pay payable under chapter 67 of this title to former members of the armed forces (other than retired pay payable by the Secretary of Transportation);".

(d) CLARIFICATION OF ENTITLEMENT OF RETIRED RESERVISTS FOR SERVICE PERFORMED WHILE IN RETIRED STATUS.—Section 675 of title 10, United States Code, is amended by adding at the end the following: "A member of the Ready Reserve (other than a member transferred to the Retired Reserve under section 1001(b) of this title) who is ordered to active duty or other appropriate duty in a retired status may be credited under chapter 67 of this title with service performed pursuant to such order. A member in a retired status is not eligible for promotion (or for consideration for promotion) as a Reserve.".

SEC. 652. REPEAL OF CERTAIN OBSOLETE AND EXPIRED PROVISIONS

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 971(a) is amended by striking out ", under an appointment accepted after June 25, 1956,".

(B) The limitation in section 971(a) of title 10, United States Code, shall not apply with respect to a period of service referred to in that section while also serving under an appointment as a cadet or midshipman accepted before June 26, 1956. 10 USC 971 note.

(2) Section 971(b) is amended—

(A) in paragraph (1), by striking out ", if he was appointed as a midshipman or cadet after March 4, 1913"; and

(B) in paragraph (2), by striking out ", if he was appointed as a midshipman or cadet after August 24, 1912".

(3) Section 1482(e) is amended by striking out "the effective date of this subsection, or the date of death," and inserting in lieu thereof "the date of death".

(4) Sections 3014(f), 5014(f), and 8014(f) are each amended by striking out paragraph (5).

(5) Section 6330(a) is amended by striking out "under—" and all that follows through "this section." and inserting in lieu thereof "under this section.".

(6) Section 8925(a) is amended by striking out "and service computed under section 8683 of this title".

(7) Section 8926 is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (1);

(ii) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(iii) by striking out paragraphs (3) and (4); and

(B) by striking out subsection (d).

(b) TITLE 37.—Title 37, United States Code, is amended as follows:

(1) Sections 308b(e) and 308c(e) are each amended by striking out the second sentence.

(2) Section 308c(a) is amended by striking out ", after September 30, 1978,".

SEC. 653. OTHER TECHNICAL AND CLERICAL AMENDMENTS

(a) AMENDMENTS FOR STYLISTIC CONSISTENCY.—Title 10, United States Code, is amended as follows:

(1) Section 502 is amended by striking out "or affirmation".

(2) Section 603(f) is amended—

(A) by striking out "terminates—" and inserting in lieu thereof "terminates on the earliest of the following:";

(B) by striking out "on the" in paragraph (1) and inserting in lieu thereof "The";

(C) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period;

(D) by striking out "at the" in paragraph (2) and inserting in lieu thereof "The";

(E) by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period;

(F) by striking out "on the" in paragraph (3) and inserting in lieu thereof "The"; and

(G) by striking out the semicolon at the end of paragraph (3) and all that follows and inserting in lieu thereof a period.

(3) Section 671b(a) is amended by striking out "Armed Forces of the United States" and inserting in lieu thereof "armed forces".

(4) Section 1076(e)(3)(C) is amended by striking out "1 year" and inserting in lieu thereof "one year".

(5) Section 1408(a) is amended—

(A) by striking out "(26 U.S.C. 3402(i))" in paragraph (4)(D); and

(B) by inserting "entitled to retired pay under section 1331 of this title" in paragraph (5) after "a former member".

(6) Section 1482(a) is amended—

(A) by striking out "expenses of—" and inserting in lieu thereof "expenses of the following:";

(B) by capitalizing the first letter of the first word in each of paragraphs (1) through (11);

(C) by striking out the semicolon at the end of paragraphs (1) through (9) and inserting in lieu thereof a period;

(D) by striking out "; and" at the end of paragraph (10) and inserting in lieu thereof a period; and

(E) in paragraph (11)—

(i) by striking out "clause" each place it appears and inserting in lieu thereof "paragraph"; and

(ii) by striking out "decedent; for the" and inserting in lieu thereof "decedent. For the".

(b) CORRECTION OF TABLE HEADING.—Section 305a(b) of title 37, United States Code, is amended by inserting "COMMISSIONED" before "OFFICERS" in the heading of the table in that subsection relating to officers in pay grades O–1 through O–6.

(c) CORRECTIONS TO AMENDMENTS MADE BY PUBLIC LAW 100–456.—(1) Section 411g(a) of title 37, United States Code, is amended by striking out "to" after "may be paid".

(2) Section 419 of such title is amended—

(A) by striking out "a officer" both places it appears and inserting in lieu thereof "an officer"; and

(B) by striking out "to" after "may be paid".

(d) PUNCTUATION AMENDMENT.—Section 209(c) of title 37, United States Code, is amended by striking out the period after "title 10" the first place it appears.

(e) Cross Reference Corrections.—(1) Section 1094(c)(2) of title 10, United States Code, is amended by striking out "subsections (b) and (d) through (g)" and inserting in lieu thereof "subsections (c) and (e) through (h)".

(2) Section 403(b)(1)(B) of Public Law 99-661 (10 U.S.C. 521 note) is amended by striking out "3033," and "8033," and inserting in lieu thereof "3021," and "8021,", respectively.

(f) Date of Enactment Reference.—Section 1102(j)(1) of title 10, United States Code, is amended by striking out "the date of the enactment of this section" and inserting In lieu thereof "November 14, 1986".

(g) Reference to the Canal Zone.—Section 708(a) of title 32, United States Code, is amended by striking out "governor of each State and Territory, Puerto Rico, and the Canal Zone" and inserting in lieu thereof "Governor of each State or Territory and Puerto Rico".

Part G—Miscellaneous

SEC. 661. MILITARY RELOCATION ASSISTANCE PROGRAMS

10 USC 113 note.

(a) Requirement to Provide Assistance.—Not later than October 1, 1990, the Secretary of Defense shall establish a program to provide relocation assistance to members of the Armed Forces and their families as provided in this section. In addition, the Secretary of Defense shall make every effort, consistent with readiness objectives, to stabilize and lengthen tours of duty to minimize the adverse effects of relocation.

Regulations.

(b) Types of Assistance.—(1) The Secretary of each military department, under regulations prescribed by the Secretary of Defense, shall provide relocation assistance, through military relocation assistance programs described in subsection (c), to members of the Armed Forces who are ordered to make a change of permanent station which includes a move to a new location (and for dependents of such members who are authorized to move in connection with the change of permanent station).

(2) The relocation assistance provided shall include the following:

(A) Provision of destination area information and preparation (to be provided before the change of permanent station takes effect), with emphasis on information with regard to moving costs, housing costs and availability, child care, spouse employment opportunities, cultural adaptation, and community orientation.

(B) Provision of counseling about financial management, home buying and selling, renting, stress management aimed at intervention and prevention of abuse, property management, and shipment and storage of household goods (including motor vehicles and pets).

(C) Provision of settling-in services, with emphasis on available government living quarters, private housing, child care, spouse employment assistance information, cultural adaptation, and community orientation.

(D) Provision of home finding services, with emphasis on services for locating adequate, affordable temporary and permanent housing.

(c) Military Relocation Assistance Programs.—(1) The Secretary shall provide for the establishment of military relocation assistance programs to provide the relocation assistance described in subsection (b). The Secretary shall establish such a program in each geographic area in which at least 500 members of the Armed Forces are assigned to or serving at a military installation. A member who is not stationed within a geographic area that contains such a program shall be given access to such a program. The Secretary shall ensure that persons on the staff of each program are trained in the techniques and delivery of professional relocation assistance.

(2) The Secretary shall ensure that, not later than September 30, 1991, information available through each military relocation assistance program shall be managed through a computerized information system that can interact with all other military relocation assistance programs of the military departments, including programs located outside the continental United States.

(3) Duties of each military relocation assistance program shall include assisting personnel offices on the military installation in using the computerized information available through the program to help provide members of the Armed Forces who are deciding whether to reenlist information on locations of possible future duty assignments.

(d) DIRECTOR.—The Secretary of Defense shall establish the position of Director of Military Relocation Assistance Programs in the office of the Assistant Secretary of Defense (Force Management and Personnel). The Director shall oversee development and implementation of the military relocation assistance programs under this section.

(e) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretary of Defense.

(f) ANNUAL REPORT.—Not later than March 1 each year, the Secretary of Defense, acting through the Director of Military Relocation Assistance Programs, shall submit to Congress a report on the program under this section and on military family relocation matters. The report shall include the following:

(1) An assessment of available, affordable private-sector housing for members of the Armed Forces and their families.

(2) An assessment of the actual nonreimbursed costs incurred by members of the Armed Forces and their families who are ordered to make a change of permanent station.

(3) Information (shown by military installation) on the types of locations at which members of the Armed Forces assigned to duty at military installations live, including the number of members of the Armed Forces who live on a military installation and the number who do not live on a military installation.

(4) Information on the effects of the relocation assistance programs established under this section on the quality of life of members of the Armed Forces and their families and on retention and productivity of members of the Armed Forces.

(g) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard.

(h) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section not later than July 1, 1990.

(i) REPORT ON PLAN FOR IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on a plan for the full implementation of the programs provided for in this section. The report shall include an estimate of the cost of implementing that plan.

SEC. 662. EXTENSION OF TEST PROGRAM OF REIMBURSEMENT FOR ADOPTION EXPENSES

(a) INCLUSION OF COAST GUARD.—(1) Subsection (a) of section 638 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1106; 10 U.S.C. 113 note) is amended—

(A) by inserting "under the jurisdiction of the Secretary" after "member of the Armed Forces"; and

(B) by adding at the end the following new sentence: "The Secretary of Transportation shall carry out a similar test program under which a member of the Coast Guard may be reimbursed, as provided in this section, for qualifying adoption expenses incurred by the member.".

(2) Subsection (f) of such section is amended to read as follows:

"(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section with respect to members of the Armed Forces under the Secretary's jurisdiction. The Secretary of Transportation shall prescribe regulations to carry out this section with respect to members of the Coast Guard.".

(b) PERIOD COVERED BY TEST PROGRAM.—Subsection (h) of such section is amended to read as follows:

"(h) DURATION OF TEST PROGRAM.—The test program under this section shall apply with respect to qualifying adoption expenses incurred for adoption proceedings initiated—

"(1) in the case of a member of the Army, Navy, Air Force, or Marine Corps, after September 30, 1987, and before October 1, 1990; and

"(2) in the case of a member of the Coast Guard, after September 30, 1989, and before October 1, 1990.".

(c) TECHNICAL AMENDMENTS.—(1) Subsection (a) of such section is amended—

(A) by striking out "shall establish" and inserting in lieu thereof "shall carry out"; and

(B) by striking out "in the adoption of a child".

(2) Subsection (g)(1) of such section is amended by inserting "under 18 years of age" after "legal adoption of a child".

SEC. 663. REPEAL OF FOUR-YEAR RESERVE OFFICER UNIFORM ALLOWANCE

(a) REPEAL OF ALLOWANCE.—Section 416 of title 37, United States Code, is amended—

(1) by striking out subsection (a);

(2) by striking out "(b) In addition" and all that follows through "of this section" and inserting in lieu thereof "(a) In addition to the allowance provided by section 415 of this title";

(3) by striking out "he" and inserting in lieu thereof "the officer"; and

(4) by designating the sentence beginning "However, this subsection does not" as subsection (b) and in that sentence striking out "However, this subsection" and inserting in lieu thereof "Subsection (a)".

37 USC 416 note.

(b) SAVE PAY PROVISION.—An officer of an armed force who, but for the amendments made by subsection (a), would have become entitled to a uniform reimbursement under section 416(a) of title 37, United States Code, before the end of the one-year period beginning on the date of the enactment of this Act shall be entitled (during such one-year period) to receive such reimbursement under such section as in effect on the day before the date of the enactment of this Act.

SEC. 664. REIMBURSEMENT FOR FINANCIAL INSTITUTION CHARGES INCURRED BECAUSE OF GOVERNMENT ERROR IN DIRECT DEPOSIT OF PAY

(a) Extension of Scope of Reimbursement Authority.—(1) Subsection (a) of section 1053 of title 10, United States Code, is amended to read as follows:

"(a)(1) A member of the armed forces (or a former member of the armed forces entitled to retired pay under chapter 67 of this title) who, in accordance with law or regulation, participates in a program for the automatic deposit of pay to a financial institution may be reimbursed by the Secretary concerned for a covered late-deposit charge.

"(2) A covered late-deposit charge for purposes of paragraph (1) is a charge (including an overdraft charge or a minimum balance or average balance charge) that is levied by a financial institution and that results from an administrative or mechanical error on the part of the Government that causes the pay of the person concerned to be deposited late or in an incorrect manner or amount.".

(2) Subsection (d) of such section is amended to read as follows:

"(d) In this section:

"(1) The term 'financial institution' has the meaning given the term 'financial organization' in section 3332(a) of title 31.

"(2) The term 'pay' includes (A) retired pay, and (B) allowances.".

(3)(A) The heading of such section is amended to read as follows:

"§ 1053. Reimbursement for financial institution charges incurred because of Government error in mandatory direct deposit of pay".

(B) The item relating to such section in the table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1053. Reimbursement for financial institution charges incurred because of Government error in mandatory direct deposit of pay.".

(b) Other Department of Defense Personnel.—(1) Chapter 81 of such title is amended by adding after section 1593, as added by section 336, the following new section:

"§ 1594. Reimbursement for financial institution charges incurred because of Government error in mandatory direct deposit of pay

"(a)(1) A civilian officer or employee of the Department of Defense who, in accordance with law or regulation, participates in a program for the automatic deposit of pay to a financial institution may be reimbursed for a covered late-deposit charge.

"(2) A covered late-deposit charge for purposes of paragraph (1) is a charge (including an overdraft charge or a minimum balance charge) that is levied by a financial institution and that results from an administrative or mechanical error on the part of the Government that causes the pay of the officer or employee concerned to be deposited late or in an incorrect manner or amount.

"(b) Reimbursements under this section shall be made from appropriations available for the pay of the officer or employee concerned.

"(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

"(d) in this section:

"(1) The term 'financial institution' has the meaning given the term 'financial organization' in section 3332(a) of title 31.

"(2) The term 'pay' includes allowances.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1593, as added by section 336, the following new item:

"1594. Reimbursement for financial institution charges incurred because of Government error in mandatory direct deposit of pay.".

(c) Effective Date.—The amendments made by subsection (a), and section 1594 of title 10, United States Code, as added by subsection (b), shall apply with respect to pay and allowances deposited (or scheduled to be deposited) on or after the first day of the first month beginning after the date of the enactment of this Act.

10 USC 1053 note.

TITLE VII—HEALTH CARE PROVISIONS

Part A—Health Care Professions Personnel Matters

SEC. 701. AUTHORITY TO REPAY LOANS OF CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE

(a) Expansion of Education Loans That Qualify for Repayment.—Subsection (a) of section 2172 of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a loan made, insured, or guaranteed through a recognized financial or educational institution if that loan was used to finance education regarding a health profession that the Secretary of Defense determines to be critically needed in order to meet identified wartime combat medical skill shortages.".

(b) Extension of Authority.—Subsection (d) of such section is amended by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1992".

(c) Technical Amendments.—(1) Subsection (a) of such section is amended by striking out "a portion of" in paragraph (1).

(2) Subsection (c) of such section is amended by striking out "portion of" in paragraph (2) and inserting in lieu thereof "amount of".

(d) Report on Loan Repayments.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) evaluating the loan repayment program for certain health professionals established under section 2172 of title 10, United States Code (as amended by this section); and

(B) containing a legislative proposal to establish a comprehensive and coordinated program in the military departments to repay education loans for health professionals who serve on active duty or in a reserve component.

(2) The report required by paragraph (1) shall be submitted not later than January 15, 1990.

SEC. 702. REVISION OF MILITARY PHYSICIAN SPECIAL PAY STRUCTURE

(a) VARIABLE SPECIAL PAY.—Subsection (a)(2) of section 302 of title 37, United States Code, is amended—

(1) by striking out "$10,000" in subparagraph (C) and inserting in lieu thereof "$12,000";

(2) by striking out "$9,500" in subparagraph (D) and inserting in lieu thereof "$11,500";

(3) by striking out "$9,000" in subparagraph (E) and inserting in lieu thereof "$11,000";

(4) by striking out "$8,000" in subparagraph (F) and inserting in lieu thereof "$10,000";

(5) by striking out "$7,000" in subparagraph (G) and inserting in lieu thereof "$9,000";

(6) by striking out "$6,000" in subparagraph (H) and inserting in lieu thereof "$8,000"; and

(7) by striking out "$5,000" in subparagraph (I) and inserting in lieu thereof "$7,000".

(b) ADDITIONAL SPECIAL PAY.—Subsection (a)(4) of such section is amended—

(1) by striking out "(A)";

(2) by striking out "who has less than ten years of creditable service";

(3) by striking out "$9,000" and inserting in lieu thereof "$15,000"; and

(4) by striking out subparagraph (B).

(c) BOARD CERTIFICATION PAY.—Subsection (a)(5) of such section is amended—

(1) by striking out "$2,000" in subparagraph (A) and inserting in lieu thereof "$2,500";

(2) by striking out "$2,500" in subparagraph (B) and inserting in lieu thereof "$3,500";

(3) by striking out "$3,000" in subparagraph (C) and inserting in lieu thereof "$4,000";

(4) by striking out "$4,000" in subparagraph (D) and inserting in lieu thereof "$5,000"; and

(5) by striking out "$5,000" in subparagraph (E) and inserting in lieu thereof "$6,000".

(d) INCENTIVE SPECIAL PAY.—Subsection (b)(1) of such section is amended by striking out "$8,000 for any twelve-month period" and all that follows through the period and inserting in lieu thereof "$16,000 for any twelve-month period beginning in fiscal year 1990, $22,000 for any twelve-month period beginning in fiscal year 1991, $29,000 for any twelve-month period beginning in fiscal year 1992, and $36,000 for any twelve-month period beginning after fiscal year 1992.".

(e) RESERVE MEDICAL OFFICERS SPECIAL PAY.—Subsection (h) of such section is amended to read as follows:

"(h) RESERVE MEDICAL OFFICERS SPECIAL PAY.—(1) A reserve medical officer described in paragraph (2) is entitled to special pay at the rate of $450 a month for each month of active duty.

"(2) A reserve medical officer referred to in paragraph (1) is a reserve officer who—

"(A) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer; and

"(B) is on active duty under a call or order to active duty for a period of less than one year.".

(f) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by inserting "VARIABLE, ADDITIONAL, AND BOARD CERTIFICATION SPECIAL PAY.—" in subsection (a) after "(a)";

(2) by inserting "INCENTIVE SPECIAL PAY.—" in subsection (b) after "(b)";

(3) by inserting "ACTIVE-DUTY AGREEMENT.—" in subsection (c) after "(c)";

(4) by inserting "REGULATIONS.—" in subsection (d) after "(d)";

(5) by inserting "FREQUENCY OF PAYMENTS.—" in subsection (e) after "(e)";

(6) by inserting "REFUND FOR PERIOD OF UNSERVED OBLIGATED SERVICE.—" in subsection (f) after "(f)";

(7) by inserting "DETERMINATION OF CREDITABLE SERVICE.—" in subsection (g) after "(g)";

(8) by inserting "EFFECT OF DISCHARGE IN BANKRUPTCY.—" in subsection (i) after "(i)"; and

(9) by striking out "of this section" and "of this subsection" each place they appear (other than in subsection (g)).

(g) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (c) shall take effect on January 1, 1990. 37 USC 302 note.

(2) The amendments made by subsections (b) and (d) shall apply to an agreement entered into under section 302(c)(1) of title 37, United States Code, on or after the date of the enactment of this Act.

(3) The amendment made by subsection (e) shall take effect on January 1, 1990, and shall apply to pay periods beginning on or after such date.

SEC. 703. EXTENSION AND EXPANSION OF MEDICAL OFFICER RETENTION BONUS PROGRAM

(a) BONUS AUTHORIZED.—Subsection (a) of section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), is amended by striking out "September 30, 1989" in paragraph (1) and inserting in lieu thereof "September 30, 1990".

(b) LIMITATION ON AMOUNT OF INCENTIVE SPECIAL PAY.—Subsection (a) of such section is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law, the amount of incentive special pay under section 302(b) of title 37, United States Code, paid to a medical officer who executes an agreement under paragraph (1) may not exceed $16,000 during each year covered by the agreement.".

(c) COVERED OFFICERS.—Subsection (b) of such section is amended—

(1) in paragraph (3), by striking out "; and" and inserting in lieu thereof "or has completed any active-duty service commitment incurred for medical education and training;"; and

(2) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) has completed initial residency training (or will complete such training before October 1, 1991); and

"(5) is not pursuing a medical residency or fellowship subsequent to completing initial residency training.".

(d) Report.—(1) Subsection (g) of such section is amended to read as follows:

"(g) Report.—(1) Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating—

"(A) the effectiveness of the Armed Forces in retaining medical officers by providing a retention bonus under this section to medical officers who make a multi-year active-duty service commitment; and

"(B) the effectiveness and practicability of such alternative multi-year options as the Secretary considers appropriate to encourage medical officers to make active-duty service commitments of longer length.

"(2) The options evaluated by the Secretary under paragraph (1)(B) shall include—

"(A) a proposal to increase the payment of additional special pay under subsection (a)(4) of section 302 of title 37, United States Code, by $2,000 for a two-year active-duty service commitment, $4,000 for a three-year active-duty service commitment, and $8,000 for a four-year active-duty service commitment; and

"(B) a proposal to increase the amount of incentive special pay provided under subsection (b) of such section to medical officers who make a multi-year active-duty service commitment by a certain percentage based on the length of the active-duty service commitment.

"(3) The Secretary shall include for each option evaluated under paragraph (1) an assessment of the cost of such option if implemented and methods to fund such option within the amounts provided for special pay under section 302 of title 37, United States Code.".

(2) Such section is further amended by striking out subsection (i).

37 USC 302 note.

(e) Transition for Certain Officers Excluded During Fiscal Year 1989.—(1) In the case of an agreement that was executed by a medical officer under section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), before October 1, 1989, but that was not accepted by the Secretary concerned solely because of the limitation contained in subsection (h) of such section, the Secretary concerned may accept such agreement during the 90-day period beginning on the date of the enactment of this Act notwithstanding such limitation.

(2) An agreement accepted under this subsection may be deemed by the Secretary concerned to have been accepted on the date on which the officer executed the agreement during fiscal year 1989.

37 USC 302 note.

(f) Coverage of Period of Lapsed Authority.—In the case of a medical officer described in paragraph (2) who executes an agreement under section 612 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 1979; 37 U.S.C. 302 note), during the 90-day period beginning on the date of the enactment of this Act, the Secretary concerned may deem such agreement to have been executed and accepted for purposes of such section on the first date on which the officer would have qualified for such agreement had the authority referred to in such paragraph not lapsed.

(2) A medical officer referred to in paragraph (1) is an officer who, during the period beginning on October 1, 1989, and ending on the date of the enactment of this Act, would have qualified for an agreement under such section but for the fact that the authority for the payment of bonuses provided by such section had lapsed.

(g) **Secretary Concerned Defined.**—For purposes of subsections (e) and (f), the term "Secretary concerned" has the meaning given that term by section 101(5) of title 37, United States Code.

37 USC 302 note.

SEC. 704. SPECIAL PAY FOR PSYCHOLOGISTS

(a) **Special Pay Authorized.**—Section 302c of title 37, United States Code, is amended by adding at the end the following new subsection:

"(c) **Army, Navy, and Air Force Psychologists.**—The Secretary of Defense may provide special pay at the rates specified in subsection (b) to an officer who—

"(1) is an officer in the Medical Service Corps of the Army or Navy or a biomedical sciences officer in the Air Force;

"(2) is designated as a psychologist; and

"(3) has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology.".

(b) **Clerical Amendments.**—(1) The section heading of such section is amended by striking out "in the Public Health Service Corps".

(2) The item relating to section 302c in the table of sections at the beginning of chapter 5 of such title is amended by striking out "in the Public Health Service Corps".

(c) **Stylistic Amendments.**—Such section is further amended—

(1) by inserting "Public Health Service Corps.—" in subsection (a) after "(a)"; and

(2) by inserting "Rate of Special Pay.—" in subsection (b) after "(b)".

Reports.
37 USC 302c note.

(d) **Implementation of Amendment.**—The Secretary of Defense may not implement subsection (c) of section 302c of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

(1) justifying the need of the military departments for the authority provided in such subsection; and

(2) describing the manner in which that authority will be implemented.

SEC. 705. ACCESSION BONUS FOR REGISTERED NURSES

(a) **Accession Bonus Authorized.**—(1) Chapter 5 of title 37, United States Code, is amended by adding after section 302c the following new section:

"§ 302d. Special pay: accession bonus for registered nurses

"(a) **Accession Bonus Authorized.**—(1) A person who is a registered nurse and who, during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991 and ending on September 30, 1991, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

"(2) The amount of an accession bonus under paragraph (1) may not exceed $5,000.

"(b) **Limitation on Eligibility for Bonus.**—A person may not be paid a bonus under subsection (a) if—

"(1) the person, in exchange for an agreement to accept an appointment as an officer, received financial assistance from the Department of Defense to pursue a baccalaureate degree; or

"(2) the Secretary concerned determines that the person is not qualified to become and remain licensed as a registered nurse.

"(c) AGREEMENT.—The agreement referred to in subsection (a) shall provide that, consistent with the needs of the uniformed service concerned, the person executing the agreement will be assigned to duty, for the period of obligated service covered by the agreement, as an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service.

"(d) REPAYMENT.—(1) An officer who receives a payment under subsection (a) and who fails to become and remain licensed as a registered nurse during the period for which the payment is made shall refund to the United States an amount equal to the full amount of such payment.

"(2) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(3) An obligation to reimburse the United States imposed under paragraph (1) or (2) is for all purposes a debt owed to the United States.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302c the following new item:

"302d. Special pay: accession bonus for registered nurses.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code, is amended by inserting "302d," after "302c," each place it appears.

(c) REPORT ON IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in section 302d of title 37, United States Code (as added by subsection (a)), is implemented.

SEC. 706. INCENTIVE PAY FOR NURSE ANESTHETISTS

(a) AUTHORIZATION FOR INCENTIVE PAY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302d (as added by section 705) the following new section:

"§ 302e. Special pay: nurse anesthetists

"(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b) who, during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Years

1990 and 1991 and ending on September 30, 1991, executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $6,000 for any 12-month period.

"(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the period of obligated service provided for in the agreement under that paragraph.

"(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of a uniformed service who—

"(1) is an officer of the Nurse Corps of the Army or Navy, an officer of the Air Force designated as a nurse, or an officer designated as a nurse in the commissioned corps of the Public Health Service;

"(2) is a qualified certified registered nurse anesthetist; and

"(3) is on active duty under a call or order to active duty for a period of not less than one year.

"(c) TERMINATION OF AGREEMENT.—Under regulations prescribed by the Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, the Secretary concerned may terminate an agreement entered into under subsection (a). Upon termination of an agreement, the entitlement of the officer to special pay under this section and the agreed upon commitment to active duty of the officer shall end. The officer may be required to refund that part of the special pay corresponding to the unserved period of active duty.

"(d) PAYMENT.—Special pay payable to an officer under subsection (a) of this section shall be paid annually at the beginning of the 12-month period for which the officer is to receive that payment.

"(e) REPAYMENT.—(1) An officer who voluntarily terminates service on active duty before the end of the period agreed to be served under subsection (a) shall refund to the United States an amount that bears the same ratio to the amount paid to the officer as the unserved part of such period bears to the total period agreed to be served.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302d (as added by section 705) the following new item:

"302e. Special pay: nurse anesthetists.".

(b) ADMINISTRATION AND IMPLEMENTATION.—Section 303a of title 37, United States Code (as amended by section 705(b)), is further amended by inserting "302e," after "302d," each place it appears.

(c) REPORT ON MILITARY USE OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—(1) The Secretary of Defense shall submit to the

Committees on Armed Services of the Senate and House of Representatives a report on the use of certified registered nurse anesthetists by the military departments. The report shall include—

(A) a description of restrictions imposed by the military departments on the use of such nurses;

(B) a comparison of such restrictions with restrictions imposed by other entities on the use of such nurses;

(C) a description of the number of persons who annually receive training by the military departments to be certified registered nurse anesthetists; and

(D) the desirability and cost of expanding the capability of the military departments to provide such training.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1990.

SEC. 707. NURSE OFFICER CANDIDATE ACCESSION BONUS

(a) Bonus Authorized.—Chapter 105 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—NURSE OFFICER CANDIDATE ACCESSION PROGRAM

"Sec.
"2130a. Financial assistance: nurse officer candidates.

"§ 2130a. Financial assistance: nurse officer candidates

"(a) Bonus Authorized.—(1) A person described in subsection (b) who, during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991 and ending on September 30, 1991, executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $5,000. The bonus shall be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted, except that the first installment may not exceed $2,500.

"(2) In addition to the accession bonus payable under paragraph (1), a person selected under such paragraph shall be entitled to a monthly stipend of not more than $500 for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title. The continuation bonus may be paid for not more than 24 months.

"(b) Eligible Students.—A person eligible to enter into an agreement under subsection (a) is a person who—

"(1) is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution that does not have a Senior Reserve Officers' Training Program established under section 2102 of this title;

"(2) has completed the second year of an accredited baccalaureate degree program in nursing and has more than 6 months of academic work remaining before graduation; and

"(3) meets the qualifications for appointment as an officer of a reserve component of the Army, Navy, or Air Force as set forth in section 591 of this title or, in the case of the Public Health

Service, section 207 of the Public Health Service Act (42 U.S.C. 209) and the regulations of the Secretary concerned.

"(c) REQUIRED AGREEMENT.—The agreement referred to in subsection (a) shall provide that the person executing the agreement agrees to the following:

"(1) That the person will complete the nursing degree program described in subsection (b)(1).

"(2) That, upon acceptance of the agreement by the Secretary concerned, the person will enlist in a reserve component of an armed force.

"(3) That the person will accept an appointment as an officer in the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer in the Air Force or commissioned corps of the Public Health Service, as the case may be, upon graduation from the nursing degree program.

"(4) That the person will serve on active duty as such an officer—

"(A) for a period of 4 years in the case of a person whose agreement was accepted by the Secretary concerned during that person's fourth year of the nursing degree program; or

"(B) for a period of 5 years in the case of a person whose agreement was accepted by the Secretary concerned during that person's third year of the nursing degree program.

"(d) REFUND OF PAYMENTS.—(1) A person shall refund any bonus or stipend paid under subsection (a) if the person—

"(A) fails to complete a nursing degree program in which the person is enrolled in accordance with the agreement entered into under such subsection;

"(B) having completed the nursing degree program, fails to accept an appointment, if tendered, as an officer of the Nurse Corps of the Army or the Navy or as an officer designated as a nurse officer of the Air Force or commissioned corps of the Public Health Service; or

"(C) fails to complete the period of obligated active service required under the agreement.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or this subsection. This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991.".

"(e) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of subchapters at the beginning of chapter 105 of such title is amended by adding at the end the following new item:

"III. Nurse Officer Candidate Accession Program .... 2130a".

SEC. 708. PROGRAM TO INCREASE USE OF CERTAIN NURSES BY THE MILITARY DEPARTMENTS

10 USC 531 note.

(a) PROGRAM REQUIRED.—(1) Not later than September 30, 1991, the Secretary of each military department shall implement a program to appoint persons who have an associate degree or diploma in nursing (but have not received a baccalaureate degree in nursing) as officers and to assign such officers to duty as nurses.

(2) An officer appointed pursuant to the program required by subsection (a) shall be appointed in a warrant officer grade or in a commissioned grade not higher than O-3. Such officer may not be promoted above the grade of O-3 unless the officer receives a baccalaureate degree in nursing.

(b) REPORT ON IMPLEMENTATION.—Not later than April 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the actions taken by the Secretaries of the military departments to implement the program required by this section.

SEC. 709. AUTHORITY TO DEFER MANDATORY RETIREMENT FOR AGE OF REGULAR OFFICERS IN A HEALTH-RELATED PROFESSION

Section 1251(c)(2) of title 10, United States Code, is amended—

(1) by striking out "A deferment" and inserting in lieu therof "(A) Except as provided in subparagraph (B), a deferment";

(2) by striking out "67 years of age" and inserting in lieu thereof "68 years of age"; and

(3) by adding at the end the following new subparagraph:

"(B) The Secretary concerned may extend a deferment under this subsection beyond the day referred to in subparagraph (A) if the Secretary determines that extension of the deferment is necessary for the needs of the military department concerned. Such an extension shall be made on a case-by-case basis and shall be for such period as the Secretary considers appropriate.".

SEC. 710. RETENTION IN ACTIVE SERVICE OF RESERVE OFFICERS IN A HEALTH-RELATED PROFESSION

(a) ARMY.—(1) Subsection (c) of section 3855 of title 10, United States Code, is amended—

(A) by striking out "An officer" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an officer";

(B) by striking out "67 years of age" and inserting in lieu thereof "68 years of age"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary of the Army may retain an officer (other than an officer in the Chaplains) in an active status under this section after the date on which the officer becomes 68 years of age if the Secretary determines that continued retention is necessary for the needs of the Army.".

(2) Such section is further amended by adding at the end the following new subsection:

"(d) Subsection (a)(1) of section 324 of title 32 shall not apply to an officer during any period in which the officer is retained in an active status under this section.".

(b) NAVY.—Subsection (c) of section 6392 of such title is amended—

(1) by striking out "An officer" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an officer";

(2) by striking out "67 years of age" and inserting in lieu thereof "68 years of age"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary of the Navy may retain an officer (other than an officer in the Chaplain Corps) in an active status under this section after the date on which the officer becomes 68 years of age if the Secretary determines that continued retention is necessary for the needs of the Navy.".

(c) AIR FORCE.—(1) Subsection (c) of section 8855 of such title is amended—

(A) by striking out "An officer" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an officer";

(B) by striking out "67 years of age" and inserting in lieu thereof "68 years of age"; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary of the Air Force may retain an officer (other than an officer who is designated as a chaplain) in an active status under this section after the date on which the officer becomes 68 years of age if the Secretary determines that continued retention is necessary for the needs of the Air Force.".

(2) Such section is further amended by adding at the end the following new subsection:

"(d) Subsection (a)(1) of section 324 of title 32 shall not apply to an officer during any period in which the officer is retained in an active status under this section.".

SEC. 711. RETENTION OF CERTAIN RESERVE PSYCHOLOGISTS IN ACTIVE STATUS

(a) ARMY.—Section 3855(a) of title 10, United States Code, is amended by striking out "the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, the Optometry Section of the Medical Service Corps," and inserting in lieu thereof the following "the Medical Service Corps (if the officer has been designated as an allied health officer or biomedical sciences officer in that Corps),".

(b) NAVY.—Section 6392(a) of such title is amended by inserting "allied health officer," before "or biomedical sciences officer".

SEC. 712. REALLOCATION OF NAVAL RESERVE REAR ADMIRAL POSITIONS AUTHORIZED FOR HEALTH PROFESSIONS

Effective date.

Effective on October 1, 1990, section 5457(a) of title 10, United States Code, is amended—

(1) by striking out "Medical Corps—7" and inserting in lieu thereof "Medical Corps—5"; and

(2) by inserting after and below paragraph (7) the following:

"(8) Nurse Corps—1.

"(9) Medical Service Corps—1.".

PART B—HEALTH CARE MANAGEMENT

SEC. 721. PROHIBITION ON CHARGES FOR OUTPATIENT MEDICAL AND DENTAL CARE

10 USC 1074 note.

During fiscal years 1990 and 1991, the Secretary of Defense may not impose a charge for the receipt of outpatient medical or dental care at a military medical treatment facility.

SEC. 722. SHARING OF HEALTH-CARE RESOURCES WITH THE DEPARTMENT OF VETERANS AFFAIRS

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1104. Sharing of health-care resources with the Department of Veterans Affairs

"(a) Sharing of Health-Care Resources.—Health-care resources of the Department of Defense may be shared with health-care resources of the Department of Veterans Affairs in accordance with section 5011 of title 38 or under section 1535 of title 31.

"(b) Reimbursement From CHAMPUS Funds.—Pursuant to an agreement entered into under section 5011 of title 38 or section 1535 of title 31, the Secretary of a military department may reimburse the Secretary of Veterans Affairs from funds available for that military department for the payment of medical care provided under section 1079 or 1086 of this title.

"(c) Charges.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided to covered beneficiaries under this chapter pursuant to an agreement entered into by the Secretary of a military department under section 5011 of title 38 or section 1535 of title 31.

"(d) Provision of Services During War or National Emergency.—Members of the armed forces on active duty during and immediately following a period of war, or during and immediately following a national emergency involving the use of the armed forces in armed conflict, may be provided health-care services by the Department of Veterans Affairs in accordance with section 5011A of title 38.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1104. Sharing of health-care resources with the Department of Veterans Affairs.".

10 USC 2687 note.

SEC. 723. PROHIBITION ON REDUCING END STRENGTH LEVELS FOR MEDICAL PERSONNEL AS A RESULT OF BASE CLOSURES AND REALIGNMENTS

(a) Prohibition.—The end strength levels for medical personnel for each component of the Armed Forces, and the number of civilian personnel of the Department of Defense assigned to military medical facilities, may not be reduced as a result of the closure or realignment of a military installation under section 2687 of title 10, United States Code, or title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(b) Medical Personnel Defined.—For purposes of subsection (a), the term "medical personnel" has the meaning given that term in subparagraph (D) of section 115(b)(1) of title 10, United States Code.

Regulations.
10 USC 1101 note.

SEC. 724. REVISED DEADLINE FOR THE USE OF DIAGNOSIS-RELATED GROUPS FOR OUTPATIENT TREATMENT

The regulations required by section 1101(a) of title 10, United States Code, to establish the use of diagnosis-related groups as the primary criteria for the allocation of resources to health care facilities of the uniformed services shall be prescribed to take effect not later than October 1, 1991, in the case of outpatient treatments.

SEC. 725. ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

(a) Specialized Training Defined.—Section 2120 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) The term 'specialized training' means advanced training in a health professions specialty received in an accredited program that is beyond the basic education required for appointment as a commissioned officer with a designation as a health professional.".

(b) EXPANSION OF PROGRAM.—Section 2121 of such title is amended—

(1) in subsection (a), by striking out "health professions scholarship program" and inserting in lieu thereof "health professions scholarship and financial assistance program";

(2) in subsection (b), by inserting "and specialized training" after "study"; and

(3) in subsection (c)—

(A) by striking out "of the program" in the second sentence and inserting in lieu thereof "pursuing a course of study"; and

(B) by inserting after the second sentence the following new sentence: "Members pursuing specialized training shall serve on active duty in a pay grade commensurate with their educational level, as determined by appointment under sections 3353, 5600, or 8353 of this title, with full pay and allowances of that grade for a period of 14 days during each year of participation in the program.".

(c) ELIGIBILITY.—Paragraph (1) of section 2122(a) of such title is amended by striking out "in a course of study" and all that follows through the semicolon and inserting in lieu thereof "in a course of study or selected to receive specialized training;".

(d) FINANCIAL ASSISTANCE.—(1) Section 2127 of such title is amended by adding at the end the following new subsection:

"(e) A person participating as a member of the program in specialized training shall be paid an annual grant of $15,000 in addition to the stipend under section 2121(d) of this title. The amount of the grant shall be increased annually by the Secretary of Defense, effective July 1 of each year, in the same manner as provided for stipends.". Grants.

(2) The heading of such section is amended to read as follows:

"§ 2127. Scholarships and financial assistance: payments".

(3) The item relating to such section in the table of sections at the beginning of subchapter I of chapter 105 of such title is amended to read as follows:

"2127. Scholarships and financial assistance: payments.".

(e) REPORT ON IMPLEMENTATION.—Not later than March 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the new authority provided by this section is implemented. 10 USC 2127 note.

(f) REPORT ON SUCCESS OF FINANCIAL ASSISTANCE PROGRAM.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) evaluating the success of the financial assistance program established by this section; and

(B) describing the number of participants in the program receiving specialized training payments under subsection (e) of section 2127 of title 10, United States Code (as added by subsection (d)) and the projected number of officers to be gained, by specialty, as a result of the program for each military department.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1991.

(g) Delay in Targeting Scholarships for Critically Needed Wartime Skills.—Paragraph (2) of section 2124 of such title is amended by inserting "after September 30, 1991," after "(2)".

(h) Clerical Amendments.—(1) Section 2120 of title 10, United States Code, is amended by striking out "the Armed Forces Health Professions Scholarship program" each place it appears and inserting in lieu thereof "the Armed Forces Health Professions Scholarship and Financial Assistance program".

(2) The subchapter heading of subchapter I of chapter 105 of such title is amended to read as follows:

"SUBCHAPTER I—HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM FOR ACTIVE SERVICE".

(3) The item relating to such subchapter in the table of subchapters at the beginning of such chapter is amended to read as follows:

"I. Health Professions Scholarship and Financial Assistance Program for Active Service .... 2120".

SEC. 726. UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES AND HENRY M. JACKSON FOUNDATION FOR THE ADVANCEMENT OF MILITARY MEDICINE

(a) Increased Number of Exemptions From Dual-Pay Provision.—Subsection (f)(2) of section 2113 of title 10, United States Code, is amended by striking out "two exemptions" in the last sentence and inserting in lieu thereof "five exemptions".

(b) Grant Authority.—(1) Subsection (j)(1)(A) of such section is amended—

(A) by inserting ", accept grants from, and make grants to" after "contracts with"; and

(B) by striking out "or with" and inserting in lieu thereof "or".

(2) Subsection (g)(1) of section 178 of such title is amended by inserting ", accept grants from, and make grants to" after "contracts with".

SEC. 727. RETENTION OF FUNDS COLLECTED FROM THIRD-PARTY PAYERS OF INPATIENT CARE FURNISHED AT FACILITIES OF THE UNIFORMED SERVICES

(a) Retention Authorized.—Section 1095 of title 10, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) Amounts collected under this section from a third-party payer for the costs of inpatient hospital care provided at a facility of the uniformed services shall be credited to the appropriation supporting the maintenance and operation of the facility.".

10 USC 1095 note.

(b) Effective Date.—The amendment made by this section shall take effect on October 1, 1989, and shall apply to amounts collected under section 1095 of title 10, United States Code, on or after that date.

SEC. 728. REALLOCATION OF CERTAIN CIVILIAN PERSONNEL POSITIONS TO MEDICAL SUPPORT

(a) REALLOCATION OF POSITIONS REQUIRED.—In implementing the report of the Deputy Inspector General of the Department of Defense entitled "Review of Unified and Specified Command Headquarters" (completed in February 1988), the Secretary of the Army and the Secretary of the Navy shall reallocate to medical support positions the 939 civilian positions selected for elimination.

(b) REPORT ON REALLOCATION.—(1) The Secretary of the Army and the Secretary of the Navy shall jointly submit to the Committees on Armed Services of the Senate and House of Representatives a report describing, as of the date such report is submitted—

(A) the medical support positions created pursuant to subsection (a);

(B) the location of such positions; and

(C) the duties of the civilian personnel in such positions.

(2) The report required by paragraph (1) shall be submitted not later than March 1, 1990.

SEC. 729. CODIFICATION OF APPROPRIATION PROVISION RELATING TO CHAMPUS

Subsection (c) of section 1074 of title 10, United States Code, is amended by adding at the end the following new sentence: "If a private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the private facility or health care provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.".

SEC. 730. LIMITATION ON CHAMPUS PAYMENTS TO NONINSTITUTIONAL HEALTH-CARE PROVIDERS

(a) CHANGE IN LIMITATION.—Subsection (h) of section 1079 of title 10, United States Code, is amended by striking out "90th percentile" both places it appears and inserting in lieu thereof "80th percentile".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to services provided on or after October 1, 1989. 10 USC 1079 note.

SEC. 731. CLARIFICATION AND CORRECTION OF PROVISIONS RELATING TO HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES

(a) ELIGIBILITY OF CERTAIN FORMER SPOUSES.—Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (F);

(2) by striking out the period at the end of clause (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(H) a person who would qualify as a dependent under clause (G) but for the fact that the date of the final decree of divorce, dissolution, or annulment of the person is on or after April 1, 1985, except that the term does not include the person after the end of the one-year period beginning on the date of that final decree.".

(b) AVAILABILITY OF CONVERSION HEALTH POLICIES AND EXTENSION OF ELIGIBILITY FOR MEDICAL AND DENTAL CARE.—(1) Chapter 55 of such title is amended by inserting after section 1086 the following new section:

"§ 1086a. Certain former spouses: extension of period of eligibility for health benefits

"(a) AVAILABILITY OF CONVERSION HEALTH POLICIES.—The Secretary of Defense shall inform each person who has been a dependent for a period of one year or more under section 1072(2)(H) of this title of the availability of a conversion health policy for purchase by the person.

"(b) EFFECT OF PURCHASE.—(1) Subject to paragraph (2), if a person who is a dependent for a one-year period under section 1072(2)(H) of this title purchases a conversion health policy within that period (or within a reasonable time after that period as prescribed by the Secretary of Defense), the person shall continue to be eligible for medical and dental care in the manner described in section 1076 of this title and health benefits under section 1086 of this title until the end of the one-year period beginning on the later of—

"(A) the date the person is no longer a dependent under section 1072(2)(H) of this title; and

"(B) the date of the purchase of the policy.

"(2) The extended period of eligibility provided under paragraph (1) shall apply only with regard to a condition of the person that—

"(A) exists on the date on which coverage under the conversion health policy begins; and

"(B) for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

"(c) CONVERSION HEALTH POLICY DEFINED.—In this section, the term 'conversion health policy' means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and the private insurer, that is available for purchase by or for the use of a person who is a dependent for a one-year period under section 1072(2)(H) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1086 the following new item:

"1086a. Certain former spouses: extension of period of eligibility for health benefits.".

(c) CONFORMING AMENDMENTS.—(1) Subsection (f) of section 1076 of such title is repealed.

(2) Paragraph (3) of section 1086(c) of such title is amended to read as follows:

"(3) A dependent covered by clause (F), (G), or (H) of section 1072(2) of this title who is not eligible under paragraph (1).".

10 USC 1072 note.

(d) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—(1) The amendments made by this section apply to a person referred to in section 1072(2)(H) of title 10, United States Code (as added by subsection (a)), whose decree of divorce, dissolution, or annulment becomes final on or after the date of the enactment of this Act.

(2) The amendments made by this section shall also apply to a person referred to in such section whose decree of divorce, dissolution, or annulment became final during the period beginning on

September 29, 1988, and ending on the day before the date of the enactment of this Act, as if the amendments had become effective on September 29, 1988.

(e) TRANSITION.—(1) In the case of a person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2549), on September 28, 1988, the Secretary of Defense shall make a conversion health policy available for purchase by the person during the remaining period the person is considered to be a dependent under that section (or within a reasonable time after that period as prescribed by the Secretary of Defense). 10 USC 1072 note.

(2) Purchase of a conversion health policy under paragraph (1) by a person shall entitle the person to health care for preexisting conditions in the same manner and to the same extent as provided by section 1086a(b) of title 10, United States Code (as added by subsection (b)), until the end of the one-year period beginning on the later of—

(A) the date the person is no longer qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985; and

(B) the date of the purchase of the policy.

(3) For purposes of this subsection, the term "conversion health policy" has the meaning given that term in section 1086a(c) of title 10, United States Code (as added by subsection (b)).

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

PART A—PROCEDURES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

SEC. 801. ASSESSMENT OF RISK IN CONCURRENT DEVELOPMENT OF MAJOR DEFENSE ACQUISITION SYSTEMS

10 USC 2399 note.

(a) ESTABLISHMENT OF POLICY.—The Secretary of Defense shall establish guidelines for—

(1) determining the degree of concurrency that is appropriate for the development of major defense acquisition systems; and

(2) assessing the degree of risk associated with various degrees of concurrency.

(b) REPORT ON GUIDELINES.—The Secretary shall submit to Congress a report that describes the guidelines established under subsection (a) and the method used for assessing risk associated with concurrency.

(c) REPORT ON CONCURRENCY IN MAJOR ACQUISITION PROGRAMS.—(1) The Secretary shall also submit to Congress a report outlining the risk associated with concurrency for each major defense acquisition program that is in either full-scale development or low-rate initial production as of January 1, 1990.

(2) The report shall include consideration of the following matters with respect to each such program:

(A) The degree of confidence in the enemy threat assessment for establishing the system's requirements.

(B) The type of contract involved.

(C) The degree of stability in program funding.

(D) The level of maturity of technology involved in the system.

(E) The availability of adequate test assets, including facilities and ranges.

(F) The plans for transition from development to production.

(d) Submission of Reports.—The reports under subsections (b) and (c) shall be submitted to Congress not later than March 1, 1990.

(e) Definition.—For purposes of this section, the term "concurrency" means the degree of overlap between the development and production processes of an acquisition program.

SEC. 802. OPERATIONAL TEST AND EVALUATION

(a) In General.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2398 the following new section:

"§ 2399. Operational test and evaluation of defense acquisition programs

"(a) Condition for Proceeding Beyond Low-Rate Initial Production.—(1) The Secretary of Defense shall provide that a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed.

"(2) In this subsection, the term "major defense acquisition program" means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(b) Operational Test and Evaluation.—(1) Operational testing of a major defense acquisition program may not be conducted until the Director of Operational Test and Evaluation of the Department of Defense approves (in writing) the adequacy of the plans (including the projected level of funding) for operational test and evaluation to be conducted in connection with that program.

"(2) The Director shall analyze the results of the operational test and evaluation conducted for each major defense acquisition program. At the conclusion of such testing, the Director shall prepare a report stating the opinion of the Director as to—

Reports.

"(A) whether the test and evaluation performed were adequate; and

"(B) whether the results of such test and evaluation confirm that the items or components actually tested are effective and suitable for combat.

"(3) The Director shall submit each report under paragraph (2) to the Secretary of Defense, the Under Secretary of Defense for Acquisition, and the congressional defense committees. Each such report shall be submitted to those committees in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary and Under Secretary and shall be accompanied by such comments as the Secretary may wish to make on the report.

"(4) A final decision within the Department of Defense to proceed with a major defense acquisition program beyond low-rate initial production may not be made until the Director has submitted to the Secretary of Defense the report with respect to that program under paragraph (2) and the congressional defense committees have received that report.

"(5) In this subsection, the term "major defense acquisition program" has the meaning given that term in section 138(a)(2)(B) of this title.

"(c) Determination of Quantity of Articles Required for Operational Testing.—The quantity of articles of a new system that are to be procured for operational testing shall be determined by—

"(1) the Director of Operational Test and Evaluation of the Department of Defense, in the case of a new system that is a major defense acquisition program (as defined in section 138(a)(2)(B) of this title); or

"(2) the operational test and evaluation agency of the military department concerned, in the case of a new system that is not a major defense acquisition program.

"(d) Impartiality of Contractor Testing Personnel.—In the case of a major defense acquisition program (as defined in subsection (a)(2)), no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a). The limitation in the preceding sentence does not apply to the extent that the Secretary of Defense plans for persons employed by that contractor to be involved in the operation, maintenance, and support of the system being tested when the system is deployed in combat.

"(e) Impartial Contracted Advisory and Assistance Services.—(1) The Director may not contract with any person for advisory and assistance services with regard to the test and evaluation of a system if that person participated in (or is participating in) the development, production, or testing of such system for a military department or Defense Agency (or for another contractor of the Department of Defense).

"(2) The Director may waive the limitation under paragraph (1) in any case if the Director determines in writing that sufficient steps have been taken to ensure the impartiality of the contractor in providing the services. The Inspector General of the Department of Defense shall review each such waiver and shall include in the Inspector General's semi-annual report an assessment of those waivers made since the last such report.

Reports.

"(3) A contractor that has participated in (or is participating in) the development, production, or testing of a system for a military department or Defense Agency (or for another contractor of the Department of Defense) may not be involved (in any way) in the establishment of criteria for data collection, performance assessment, or evaluation activities for the operational test and evaluation.

"(f) Source of Funds for Testing.—The costs for all tests required under subsection (a) shall be paid from funds available for the system being tested.

"(g) Director's Annual Report.—As part of the annual report of the Director under section 138 of this title, the Director shall describe for each program covered in the report the status of test and evaluation activities in comparison with the test and evaluation master plan for that program, as approved by the Director. The Director shall include in such annual report a description of each waiver granted under subsection (e)(2) since the last such report.

"(h) Definitions.—In this section:

"(1) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title. For purposes of subsection (a), that term does not include an operational assessment based exclusively on—

"(A) computer modeling;

"(B) simulation; or

"(C) an analysis of system requirements, engineering proposals, design specifications, or any other information contained in program documents.

"(2) The term 'congressional defense committees' means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2398 the following new item:

"2399. Operational test and evaluation of defense acquisition programs.".

(b) CONFORMING AMENDMENTS TO SECTION 138.—Section 138 of such title is amended—

(1) in subsection (b)—

(A) by inserting "and" at the end of paragraph (4);

(B) by striking out paragraph (5); and

(C) by redesignating paragraph (6) as paragraph (5);

(2) by striking out subsection (c);

(3) by striking out "(d)(1)" and inserting in lieu thereof "(c)";

(4) by striking out "(2) The Director may not" and inserting in lieu thereof "(d) The Director may not";

(5) by striking out subsection (f);

(6) by striking out "(g)(1)" and inserting in lieu thereof "(f)";

(7) by striking out "this paragraph" in the last sentence of subsection (f), as designated by paragraph (6), and inserting in lieu thereof "this subsection"; and

(8) by striking out "(2) The Director shall" and inserting in lieu thereof "(g) The Director shall".

(c) CONFORMING AMENDMENTS TO SECTION 2366.—(1) Subsection (a)(1) of section 2366 of such title is amended—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(C) by striking out subparagraph (C).

(2) Subsection (b) of such section is amended—

(A) by striking out paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(3) Subsection (e) of such section is amended—

(A) by striking out paragraphs (3) and (7); and

(B) by redesignating paragraphs (4), (5), (6), and (8) as paragraphs (3), (4), (5), and (6), respectively.

(4)(A) The heading of such section is amended to read as follows:

"§ 2366. Major systems and munitions programs: survivability testing and lethality testing required before full-scale production".

(B) The item relating to such section in the table of sections at the beginning of chapter 139 of such title is amended to read as follows:

"2366. Major systems and munitions programs: survivability testing and lethality testing required before full-scale production".

SEC. 803. LOW-RATE INITIAL PRODUCTION

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2399 (as added by section 802) the following new section:

"§ 2400. Low-rate initial production of new systems

"(a) DETERMINATION OF QUANTITIES TO BE PROCURED FOR LOW-RATE INITIAL PRODUCTION.—(1) In the course of the development of a major system, the determination of what quantity of articles of that system should be procured for low-rate initial production (including the quantity to be procured for preproduction verification articles) shall be made—

"(A) when the milestone II decision with respect to that system is made; and

"(B) by the official of the Department of Defense who makes that decision.

"(2) In paragraph (1), the term 'milestone II decision' means the decision to approve the full-scale engineering development of a major system by the official of the Department of Defense designated to have the authority to make that decision.

"(3) Any increase from a quantity determined under paragraph (1) may only be made with the approval of the official making the determination.

"(4) The Secretary of Defense shall include a statement of the quantity determined under paragraph (1) in the first SAR submitted with respect to the program concerned after that quantity is determined. For purposes of the preceding sentence, the term 'SAR' means a Selected Acquisition Report submitted under section 2432 of this title.

"(b) LOW-RATE INITIAL PRODUCTION OF WEAPON SYSTEMS.—Except as provided in subsection (c), low-rate initial production with respect to a new system is production of the system in the minimum quantity necessary—

"(1) to provide production-configured or representative articles for operational tests pursuant to section 2399 of this title;

"(2) to establish an initial production base for the system; and

"(3) to permit an orderly increase in the production rate for the system sufficient to lead to full-rate production upon the successful completion of operational testing.

"(c) LOW-RATE INITIAL PRODUCTION OF NAVAL VESSEL AND SATELLITE PROGRAMS.—(1) With respect to naval vessel programs and military satellite programs, low-rate initial production is production of items at the minimum quantity and rate that (A) preserves the mobilization production base for that system, and (B) is feasible, as determined pursuant to regulations prescribed by the Secretary of Defense.

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"(2) For each naval vessel program and military satellite program, the Secretary of Defense shall submit to Congress a report providing—

"(A) an explanation of the rate and quantity prescribed for low-rate initial production and the considerations in establishing that rate and quantity;

"(B) a test and evaluation master plan for that program; and

"(C) an acquisition strategy for that program that has been approved by the Secretary, to include the procurement objectives in terms of total quantity of articles to be procured and annual production rates.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2399 (as added by section 802) the following new item:

"2400. Low-rate initial production of new systems.".

SEC. 804. MODIFICATIONS WITH RESPECT TO REPORTS ON LIVE-FIRE TESTING PROGRAMS

(a) TESTING REPORT TO BE SUBMITTED BEFORE PRODUCTION.—Subsection (a)(1) of section 2366 of title 10, United States Code (as amended by section 842), is amended by inserting "and the report required by subsection (d) with respect to that testing is submitted in accordance with that subsection" after "this section" in subparagraphs (A) and (B).

(b) CONTENT OF TESTING REPORT.—Subsection (d) of such section is amended by adding at the end the following: "Each such report shall describe the results of the survivability or lethality testing and shall give the Secretary's overall assessment of the testing.".

SEC. 805. PROCEDURES APPLICABLE TO MULTIYEAR PROCUREMENT CONTRACTS

(a) ADDITIONAL REQUIREMENTS.—Section 2306(h) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(9) A multiyear contract may not be entered into for any fiscal year under this subsection unless each of the following conditions is satisfied:

"(A) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

"(B) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

"(C) The proposed multiyear contract—

"(i) achieves a 10 percent savings as compared to the cost of current negotiated contracts, adjusted for changes in quantity and for inflation; or

"(ii) achieves a 10 percent savings as compared to annual contracts if no recent contract experience exists.

"(10) The Secretary of Defense may instruct the Secretary of the military department concerned to incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

"(11) If for any fiscal year a multiyear contract to be entered into under this subsection is authorized by law for a particular procurement program and that authorization is subject to certain conditions established by law (including a condition as to cost savings to be achieved under the multiyear contract in comparison to specified other contracts) and if it appears (after negotiations with contractors) that such savings cannot be achieved, but that substantial savings could nevertheless be achieved through the use of a multiyear contract rather than specified other contracts, the President may submit to Congress a request for relief from the specified cost savings that must be achieved through multiyear contracting for that program. Any such request by the President shall include details about the request for a multiyear contract, including details about the negotiated contract terms and conditions.".

(b) CONFORMING REPEAL.—Section 104 of Public Law 100-526 (102 Stat. 2624) is repealed. 10 USC 2306 note.

(c) TRANSITION.—Subparagraph (C) of paragraph (9) of section 2306(h) of title 10, United States Code, as added by subsection (a), does not apply to programs that are under a multiyear contract on the date of the enactment of this Act. 10 USC 2306 note.

SEC. 806. REVISION OF LIMITATION ON TRANSFER OF CERTAIN TECHNICAL DATA PACKAGES TO FOREIGN COUNTRIES

(a) COUNTRIES TO WHICH TRANSFERS MAY BE MADE.—Subsection (b) of section 4542 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "a friendly foreign country" and inserting in lieu thereof "a member nation of the North Atlantic Treaty Organization or a country designated as a major non-NATO ally";

(2) in paragraph (2)(B), by inserting ", except as provided in subsection (e)" before the semicolon at the end; and

(3) in paragraph (3), by inserting "or (d)" after "subsection (c)".

(b) COOPERATIVE PROJECT AGREEMENTS.—Such section is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (c) the following new subsections:

"(d) COOPERATIVE PROJECT AGREEMENTS.—An agreement under this subsection is a cooperative project agreement under section 27 of the Arms Export Control Act (22 U.S.C. 2767) which includes provisions that—

"(1) for development phases describe the technical data to be transferred and for the production phase prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

"(2) require that at least the United States production of the defense item to which the technical data package or assistance relates be carried out by the arsenal concerned; and

"(3) require the Secretary of Defense to monitor compliance with the agreement.

"(e) LICENSING FEES AND ROYALTIES.—The limitation in subsection (b)(2)(B) shall not apply if the technology (or production technique) transferred is subject to nonexclusive license and payment of any negotiated licensing fee or royalty that reflects the cost of development, implementation, and prove-out of the technology or production technique. Any negotiated license fee or royalty shall be placed in the operating fund of the arsenal concerned for the purpose of capital investment and technology development at that arsenal.".

(c) CONFORMING AMENDMENT.—Subsection (f) of such section (as redesignated by subsection (b)(1)) is amended by inserting "or a cooperative project" in paragraph (1) after "cooperative research and development program".

PART B—CHANGES TO ACQUISITION STATUTES

SEC. 811. ACQUISITION REPORT STREAMLINING

(a) UNIT COST REPORTS.—(1) Subsection (a) of section 2433 of title 10, United States Code, is amended—

(A) in paragraph (2), by inserting "the service acquisition executive designated by" before "the Secretary concerned"; and

(B) in paragraph (4)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned";

(ii) in clause (A), by striking out "unit cost report submitted under subsection (e)(2)(B)(ii) with respect to" and inserting in lieu thereof "Selected Acquisition Report submitted under subsection (e)(2)(B) that includes information on"; and

(iii) in clause (B), by striking out "subsection (e)(2)(B)(ii) with respect to the program during that three-quarter period, the most recent unit cost report submitted under subsection (e)(1) with respect to the program" and inserting in lieu thereof "subsection (e)(2)(B) with respect to the program during that three-quarter period, the most recent Selected Acquisition Report submitted under subsection (e)(1) that includes information on the program".

(2) Subsection (b) of section 2433 of such title is amended—

(A) by striking out "(b) The program manager" and all that follows through the colon preceding paragraph (1) and inserting in lieu thereof the following:

"(b) The program manager for a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 2432(b)(3) of this title) shall, on a quarterly basis, submit to the service acquisition executive designated by the Secretary concerned a written report on the unit costs of the program. Each report shall be submitted not more than 7 days (excluding Saturdays, Sundays, and legal public holidays) after the end of that quarter. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):"; and

(B) in paragraph (4), by striking out "Selected Acquisition Report" and inserting in lieu thereof "description established under section 2435 of this title".

(3) Subsection (c) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by striking out "fiscal-year" in the matter above clause (A); and

(ii) in the matter following clause (C)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears;

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(III) by striking out "Secretary concerned" the second place it appears and inserting in lieu thereof "such service acquisition executive"; and

(B) in paragraph (2)—

(i) in the matter above clause (A)—

(I) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(II) by striking out "(other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year)" and inserting in lieu thereof "(other than the last quarterly unit cost report under subsection (b) for the preceding fiscal year)"; and

(ii) by striking out "Secretary concerned" each place it appears in clauses (A), (B), and (C) and in the matter following clause (C) and inserting in lieu thereof "such service acquisition executive".

(4) Subsection (d) of section 2433 of such title is amended—

(A) in paragraph (1)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary shall determine" and inserting in lieu thereof "service acquisition executive shall determine";

(B) in paragraph (2)—

(i) by inserting "the service acquisition executive designated by" before "the Secretary concerned" the first place it appears; and

(ii) by striking out "Secretary concerned shall, in addition to the determination under paragraph (1), determine" and inserting in lieu thereof "service acquisition executive, in addition to the determination under paragraph (1), shall determine"; and

(C) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) If, based upon the service acquisition executive's determination, the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2), the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the service acquisition executive reports his determination of such increase in such unit cost to the Secretary and shall include in such notification the date on which the determination was made.".

(5) Subsection (e) of section 2433 of such title is amended—

(A) by striking out "(e)(1)" and all that follows through the end of paragraph (2) and inserting in lieu thereof the following:

"(e)(1)(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the current program acquisition cost of a major defense acquisition program has increased by more than 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination and such report shall include the information described in section 2432(e) of this title. The report shall be submitted within 45 days after the end of that quarter.

"(B) Whenever the Secretary makes a determination referred to in subparagraph (A) in the case of a major defense acquisition program during the second quarter of a fiscal year and before the date on which the President transmits the budget for the following fiscal year to Congress pursuant to section 1105 of title 31, the Secretary is not required to file a Selected Acquisition Report under subparagraph (A) but shall include the information described in subsection (g) regarding that program in the comprehensive annual Selected Acquisition Report submitted in that quarter.

"(2) If the percentage increase in the current program acquisition cost of a major defense acquisition program (as determined by the Secretary under subsection (d)) exceeds 25 percent, the Secretary of Defense shall submit to Congress, before the end of the 30-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title—

"(A) a written certification, stating that—

"(i) such acquisition program is essential to the national security;

"(ii) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

"(iii) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

"(iv) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

"(B) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the service acquisition executive designated by the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report."; and

(B) in paragraph (3)—

(i) by striking out "(3)" and inserting in lieu thereof the following: "(3) If a determination of a more than 15 percent increase is made by the Secretary under subsection (d) and a Selected Acquisition Report containing the information described in subsection (g) is not submitted to Congress under paragraph (1), or if a determination of a more than 25 percent increase is made by the Secretary under subsection (d) and the certification of the Secretary of Defense is not submitted to Congress under paragraph (2), funds appropriated for military construction, for research, development, test, and evaluation, and for procurement may not be obligated for a major contract under the program.";

(ii) by striking out "in subsection (d)(3)(B)";

(iii) in clause (A)—

(I) by striking out "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report"; and

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(iv) in clause (B)—

(I) by striking out "report of the Secretary concerned" and inserting in lieu thereof "Selected Acquisition Report";

(II) by striking out "(2)(B)(ii)" and inserting in lieu thereof "(2)(B)"; and

(III) by striking out "(2)(B)(i)" and inserting in lieu thereof "(2)(A)".

(6) Subsection (g)(2) of section 2433 of such title is amended by adding at the end the following new sentence: "The certification of the Secretary of Defense under subsection (e) is not required to be submitted for termination or cancellation of a program.".

(b) ENHANCED PROGRAM STABILITY.—Section 2435 of title 10, United States Code, is amended—

(1) in subsection (a)(2)(B)(iv), by striking out "development" and inserting in lieu thereof "production"; and

(2) in subsection (b)—

(A) by striking out "senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))" in paragraph (1) and inserting in lieu thereof "service acquisition executive designated by such Secretary"; and

(B) by striking out "90 days—" in paragraph (2) and inserting in lieu thereof "180 days—".

(c) SELECTED ACQUISITION REPORTS.—Section 2432(b)(2)(A) of title 10, United States Code, is amended by striking out "5 percent change in total program cost" and inserting in lieu thereof "15 percent increase in program acquisition unit cost and current procurement unit cost".

SEC. 812. THREE-YEAR PROGRAM FOR USE OF MASTER AGREEMENTS FOR PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES

Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j)(1) The Secretary of Defense may enter into agreements (known as 'master agreements') with responsible sources under which the Secretary may issue orders for the performance of specific advisory and assistance services. Any such agreement shall specify terms and conditions for the subsequent procurement of advisory and assistance services from the sources. The period covered by any such agreement may not exceed two years. Any such agreement may only be entered into using procedures that, in the case of the award of a contract, would be competitive procedures. Any such agreement shall be entered into with at least three of the sources that submit offers for the master agreement.

"(2) Following the establishment of sources for advisory and assistance services through the use of a master agreement described in paragraph (1), the Secretary of Defense (A) may request offers from all sources with master agreements for the services for which offers are being requested if the contracting officer determines that there is a reasonable expectation that offers will be obtained from at least two sources, and (B) may issue orders (known as 'task orders') pursuant to the request for offers to such sources for the performance of specific advisory and assistance services, subject to the requirements of this subsection. Any such request for offers shall contain a statement of work clearly specifying all tasks to be performed under the order. Upon evaluation of an offer or offers resulting from a request, the task order shall be issued to the source submitting the offer that the Secretary of Defense determines to be the most advantageous to the United States, considering only cost or price and other factors included in the request for offers.

"(3)(A) The requirements for the giving of notice of certain solicitations that are prescribed in section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and section 8(e) of the Small Business Act (15 U.S.C. 637(e)) shall apply to solicitations for offers for a master agreement under this subsection in the same manner and to the same extent as those requirements apply to solicitations for proposals for a contract for services for a price expected to exceed $25,000.

"(B) Such requirements for the giving of notice shall not apply to the issuance of orders under a master agreement entered into pursuant to the procedures established under this section, except that the Secretary of Defense shall furnish for publication by the Secretary of Commerce a notice announcing the order.

"(4) The total value of task orders issued under master agreements by any contracting activity in a fiscal year may not exceed the amount equal to 30 percent of the value of all contracts for advisory and assistance services awarded by that contracting activity during fiscal year 1989.

"(5) The authority provided by this subsection to enter into master agreements shall terminate at the end of the three-year period beginning on the date on which final regulations prescribed to carry out this subsection take effect.".

SEC. 813. AVAILABILITY OF FUNDS FOR OBLIGATION FOLLOWING THE RESOLUTION OF A PROTEST

(a) In General.—Subchapter IV of chapter 15 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 1558. Availability of funds following resolution of a protest

"(a) Notwithstanding section 1552 of this title or any other provision of law, funds available to an agency for obligation for a contract at the time a protest is filed in connection with a solicitation for, proposed award of, or award of such contract shall remain available for obligation for 90 working days after the date on which the final ruling is made on the protest. A ruling is considered final on the date on which the time allowed for filing an appeal or request for reconsideration has expired, or the date on which a decision is rendered on such an appeal or request, whichever is later.

"(b) Subsection (a) applies with respect to any protest filed under subchapter V of chapter 35 of this title or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1558. Availability of funds following resolution of a protest.".

SEC. 814. POST-EMPLOYMENT RESTRICTIONS

(a) Clarification.—(1) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended—

(A) by inserting ", except as provided in subsection (c)" in subsections (a)(1) and (b)(1) before the semicolon;

(B)(i) by redesignating subsections (j) through (n) as subsections (l) through (p), respectively; and

(ii) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) Recusal.—(1) A procurement official may engage in a discussion with a competing contractor that is otherwise prohibited by subsection (b)(1) if, before engaging in such discussion—

"(A) the procurement official proposes in writing to disqualify himself from the conduct of any procurement relating to the competing contractor (i) for any period during which future employment or business opportunities for such procurement official with such competing contractor have not been rejected by either the procurement official or the competing contractor, and (ii) if determined to be necessary by the head of such procuring official's procuring activity (or his designee) in accordance with criteria prescribed in implementing regulations, for a reasonable period thereafter; and

"(B) the head of that procuring activity of such procurement official (or his designee), after consultation with the appropriate designated agency ethics official, approves in writing the recusal of the procurement official.

"(2) A procurement official who, during the period beginning with the issuance of a procurement solicitation and ending with the award of a contract, has participated personally and substantially in the evaluation of bids or proposals, selection of sources, or conduct of negotiations in connection with such solicitation and contract may not be approved for a recusal under paragraph (1) during such period with respect to such procurement.

"(3) A procurement official who, during the period beginning with the negotiation of a modification or extension of a contract and ending with—

"(A) an agreement to modify or extend the contract, or

"(B) a decision not to modify or extend the contract,

has participated personally and substantially in the evaluation of a proposed modification or extension or the conduct of negotiations may not be approved for a recusal under paragraph (1) during such period with respect to such procurement.

"(4) A competing contractor may engage in a discussion with a procurement official that is otherwise prohibited by subsection (a)(1) if, before engaging in such discussion, the procurement official has been recused in accordance with this subsection.

"(5) Regulations implementing this subsection shall include specific criteria to be used in making determinations and approving recusals under paragraph (1).".

(2) Subsection (f) of such section (as redesignated by paragraph (1)(B)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking out "RESTRICTIONS ON GOVERNMENTAL OFFICIALS AND EMPLOYEES.—No" and all that follows through "shall—" and inserting in lieu thereof "RESTRICTIONS RESULTING FROM PROCUREMENT ACTIVITIES OF PROCUREMENT OFFICIALS.—(1) No individual who, while serving as an officer or employee of the Government or member of the Armed Forces, was a procurement official with respect to a particular procurement may knowingly—"; and

(C) by adding at the end the following new paragraph:

"(2) This subsection does not apply to any participation referred to in paragraph (1)(A) or (1)(B) with respect to a subcontractor who is a competing contractor unless—

"(A) the subcontractor is a first or second tier subcontractor and the subcontract is for an amount that is in excess of $100,000;

"(B) the subcontractor significantly assisted the prime contractor with respect to negotiation of the prime contract;

"(C) the procurement official involved in the award, modification, or extension of the prime contract personally directed or recommended the particular subcontractor to the prime contractor as a source for the subcontract; or

"(D) the procurement official personally reviewed and approved the award, modification, or extension of the subcontract.".

(3) Such section is further amended by inserting after subsection (j) (as redesignated by paragraph (1)(B)) the following new subsection (k):

"(k) ETHICS ADVICE.—(1) Regulations implementing this section shall include procedures for a procurement official or former procurement official of a Federal agency to request advice from the appropriate designated agency ethics official regarding whether such procurement official or former procurement official is or would be precluded by this section from engaging in a specified activity.

"(2) A procurement official or former procurement official of an agency who requests advice from a designated agency ethics official pursuant to paragraph (1) shall provide the agency ethics official with all information reasonably available to the procurement official or former procurement official that is relevant to a determination regarding such request.

"(3) Not later than 30 days after the date on which the appropriate designated agency ethics official receives a request for advice pursuant to paragraph (1) accompanied by the information required by paragraph (2), or as soon thereafter as practicable, the official shall issue a written opinion regarding whether the requesting procurement official or former procurement official is precluded by this section from engaging in the specified activity.".

(4) Subsection (o) of such section (as redesignated by paragraph (1)(B)) is amended to read as follows:

"(o) IMPLEMENTING REGULATIONS AND GUIDELINES.—(1) Government-wide regulations and guidelines appropriate to carry out this section shall be included in the Federal Acquisition Regulation.

"(2) Regulations implementing this section shall—

"(A) define the term 'thing of value' for the purposes of this section and shall include a single uniform Government-wide exclusion at a specific minimal dollar amount; and

"(B) authorize the delegation of the functions assigned to designated agency ethics officials under this section.

"(3) Notwithstanding sections 6 and 25 of this Act, on and after June 1, 1990, the Director of the Office of Government Ethics shall have the responsibility for issuance, modification, or termination of Government-wide regulations implementing paragraphs (1) and (2) of subsection (a), paragraphs (1) and (2) of subsection (b), subsections (c), (f), and (k), and paragraph (2) of this subsection. The Director shall exercise such responsibility in coordination with the Federal Acquisition Regulatory Council.".

(b) DEFINITIONS.—Subsection (p) of section 27 of such Act (as redesignated by subsection (a)(1)(B)) is amended—

(1) in paragraph (1), by striking out "with the development, preparation, and issuance of a procurement solicitation," and inserting in lieu thereof "on the earliest specific date, as determined under implementing regulations, on which an authorized official orders or requests an action described in clauses (i)–(viii) of paragraph (3)(A),";

(2) in paragraph (3), by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The term 'procurement official' means, with respect to any procurement (including the modification or extension of a contract), any civilian or military official or employee of an agency who has participated personally and substantially in any of the following, as defined in implementing regulations:

"(i) The drafting of a specification developed for that procurement.

"(ii) The review and approval of a specification developed for that procurement.

"(iii) The preparation or issuance of a procurement solicitation in that procurement.

"(iv) The evaluation of bids or proposals for that procurement.

"(v) The selection of sources for that procurement.

"(vi) The conduct of negotiations in the procurement.

"(vii) The review and approval of the award, modification, or extension of a contract in that procurement.

"(viii) Such other specific procurement actions as may be specified in implementing regulations."; and

(3) by adding at the end the following new paragraph:

"(8) The term 'designated agency ethics official' has the same meaning as the term 'designated agency official' in section 209(10) of the Ethics in Government Act of 1978 (92 Stat. 1850; 5 U.S.C. App.).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (e) (as redesignated by subsection (a)(1)(B))—

(A) by striking out "(c), or (e)" in paragraph (1)(A)(i) and inserting in lieu thereof "(d), or (f)";

(B) by striking out "(c), or (e)" in paragraph (1)(B)(ii) and inserting in lieu thereof "(d), or (f)";

(C) by striking out "(c), or (e)" in paragraph (2)(A) and inserting in lieu thereof "(d), or (f)";

(D) by striking out "(c), or (e)" in paragraph (3)(A) and inserting in lieu thereof "(d), or (f)"; and

(E) by striking out "subsection (m)" in paragraph (7)(B)(ii), and inserting in lieu thereof "subsection (o)";

(2) in paragraph (1) of subsection (g) (as redesignated by subsection (a)(1)(B)), by striking out "subsection (m)" and inserting in lieu thereof "subsection (o)";

(3) in subsection (h) (as redesignated by subsection (a)(1)(B))—

(A) by striking out "subsection (d)" in paragraph (1) and inserting in lieu thereof "subsection (e)";

(B) by striking out "(b) or (c)" in paragraph (2) and inserting in lieu thereof "(b) or (d)"; and

(C) by striking out "(h) and (i)" in paragraph (3) and inserting in lieu thereof "(i) and (j)";

(4) in subsection (i) (as redesignated by subsection (a)(1)(B)), by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)";

(5) in paragraph (1) of subsection (j) (as redesignated by subsection (a)(1)(B))—

(A) by striking out "subsection (n)" and inserting in lieu thereof "subsection (p)"; and

(B) by striking out "subsection (m)" and inserting in lieu thereof "subsection (o)"; and

(6) in subsection (l) (as redesignated by subsection (a)(1)(B))—

(A) by striking out "subsection (b)" in paragraph (1) and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(B) in paragraph (2)—

(i) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (e)"; and

(ii) by striking out "(c), or (e)" and inserting in lieu thereof "(d), or (f)".

(d) WAIVER OF CERTAIN RESTRICTIONS ON FORMER GOVERNMENT PERSONNEL.—(1) Subsection (f) of section 27 of the Office of Federal Procurement Policy Act, as redesignated and amended by subsection (a), is further amended by adding at the end the following:

"(3)(A)(i) The President may grant a waiver of a restriction imposed by paragraph (1) (relating to post-Government service employment) to an officer or employee described in subparagraph (B) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Government at any one time may hold waivers under this subparagraph.

"(ii) A waiver granted under this subparagraph to any person shall apply only with respect to activities engaged in by that person after that person's Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Government employment began.

"(B) Waivers under subparagraph (A) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

Effective date. Federal Register, publication.

"(C) A certification under subparagraph (A) shall take effect upon its publication in the Federal Register and shall identify—

"(i) the officer or employee covered by the waiver by name and by position, and

"(ii) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

"(D) The President may not delegate the authority provided by this paragraph.

Reports.

"(E)(i) Each person granted a waiver under this paragraph shall prepare reports, in accordance with clause (ii), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in clause (ii), and if so, what those activities were.

"(ii) A report under clause (i) shall cover each six-month period beginning on the date of the termination of the person's Government employment (with respect to which the waiver under this paragraph was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this subparagraph shall be made available for public inspection and copying.

Public information.

President of U.S.

"(iii) If a person fails to file any report in accordance with clauses (i) and (ii), the President shall revoke the waiver and notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

"(iv) Any person who is granted a waiver under this paragraph shall be ineligible for appointment in the civil service unless all reports required of such person by clauses (i) and (ii) have been filed.

"(D) As used in this paragraph, the term 'civil service' has the meaning given that term in section 2101 of title 5, United States Code.".

(2) Section 207 of title 18, United States Code, is amended by adding at the end the following:

"(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

"(B) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

"(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

Effective date. Federal Register, publication.

"(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

"(A) the officer or employee covered by the waiver by name and by position, and

"(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

"(4) The President may not delegate the authority provided by this subsection.

Reports.

"(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

"(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

Public information.

President of U.S.

"(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

"(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

"(E) As used in this subsection, the term 'civil service' has the meaning given that term in section 2101 of title 5.".

41 USC 423 note.

(e) IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of the enactment of this section, regulations implementing the amendments made by this section to the provisions of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) shall be issued in accordance with sections 6 and 25 of such Act (41 U.S.C. 405, 421), after coordination with the Director of the Office of Government Ethics.

SEC. 815. DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS

(a) CONSIDERATION OF MATTERS AFFECTING UNITED STATES INDUSTRY.—Section 2504 of title 10, United States Code, is amended to read as follows:

"§ 2504. Defense memoranda of understanding and related agreements

Research and development.

"(a) CONSIDERATIONS IN MAKING AND IMPLEMENTING MOUs AND RELATED AGREEMENTS.—In the negotiation, renegotiation, and implementation of any existing or proposed memorandum of understanding, or any existing or proposed agreement related to a memorandum of understanding, between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall—

"(1) consider the effects of such existing or proposed memorandum of understanding or related agreement on the defense industrial base of the United States; and

"(2) regularly solicit and consider comments and recommendations from the Secretary of Commerce with respect to the commercial implications of such memorandum of understanding or related agreement and the potential effects of such memorandum of understanding or related agreement on the international competitive position of United States industry.

"(b) INTER-AGENCY REVIEW OF EFFECTS ON UNITED STATES INDUSTRY.—Whenever the Secretary of Commerce has reason to believe that an existing or proposed memorandum of understanding or related agreement has, or threatens to have, a significant adverse effect on the international competitive position of United States industry, the Secretary may request an inter-agency review of the memorandum of understanding or related agreement. If, as a result of the review, the Secretary determines that the commercial interests of the United States are not being served or would not be served by adhering to the terms of such existing memorandum or related agreement or agreeing to such proposed memorandum or related agreement, as the case may be, the Secretary shall recommend to the President the renegotiation of the existing memorandum or related agreement or any modification to the proposed memorandum of understanding or related agreement that he considers necessary to ensure an appropriate balance of interests.

"(c) LIMITATION ON ENTERING INTO MOUs AND RELATED AGREEMENTS.—A memorandum of understanding or related agreement referred to in subsection (a) may not be entered into or implemented if the President, taking into consideration the results of the interagency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse effect on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 148 of such title is amended by striking out the item relating to section 2504 and inserting in lieu thereof the following:

"2504. Defense memoranda of understanding and related agreements.".

SEC. 816. OFFSETS IN RECIPROCAL DEFENSE PROCUREMENT AGREEMENTS

Section 825(c) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2021) is amended— 10 USC 2505 note.

(1) by transferring the text of paragraph (2) to the end of paragraph (1) and in that text striking out "the date of the enactment of this Act" and inserting in lieu thereof "September 29, 1988"; and

(2) by inserting the following after "(2)": "In the negotiation or renegotiation of any memorandum of understanding between the United States and one or more foreign countries relating to the reciprocal procurement of defense equipment and supplies or research and development, the President shall make every effort to achieve an agreement with the country or countries concerned that would limit the adverse effects that offset arrangements have on the defense industrial base of the United States.". President of U.S.

SEC. 817. SIMPLIFIED APPROVAL OF CONTRACTS IMPLEMENTING CERTAIN INTERNATIONAL AGREEMENTS

(a) EXCEPTION.—Paragraph (2) of section 2304(f) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) in the case of a procurement permitted by subsection (c)(4), but only if the head of the contracting activity prepares a document in connection with such procurement that describes the terms of an agreement or treaty, or the written directions, referred to in that subsection that have the effect of requiring the use of procedures other than competitive procedures and such document is approved by the competition advocate for the procuring activity.".

(b) PUBLIC INSPECTION.—Paragraph (4) of such section is amended by inserting after "any related information" the following: ", and any document prepared pursuant to paragraph (2)(E),".

SEC. 818. DELEGATION OF APPROVAL AUTHORITY FOR CERTAIN CONTRACT ACTIONS

(a) APPROVAL AUTHORITY.—Section 2304(f) of title 10, United States Code, is amended in paragraph (1)(B)—

(1) by striking out "or" after the semicolon in clause (ii);

(2) by redesignating clause (iii) as clause (iv) and striking out "$10,000,000" in such clause and inserting in lieu thereof "$50,000,000"; and

(3) by inserting after clause (ii) the following new clause (iii):

"(iii) in the case of a contract for an amount exceeding $10,000,000 (but equal to or less than $50,000,000), by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) or the senior procurement executive's delegate designated pursuant to paragraph (6)(B), or in the case of the Under Secretary of Defense for Acquisition, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (6)(C); or".

(b) DELEGATION.—Such section is amended in paragraph (6)—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) The authority of the senior procurement executive under paragraph (1)(B)(iii) may be delegated only to an officer or employee within the senior procurement executive's organization who—

"(i) if a member of the armed forces, is a general or flag officer; or

"(ii) if a civilian, is serving in a position in grade GS-16 or above (or in a comparable or higher position under any other schedule for civilian officers or employees).".

(c) CONFORMING AMENDMENTS.—(1) Clause (iv) of section 2304(f)(1)(B) of such title (as redesignated) is amended by striking out "paragraph (6)(B)" and inserting in lieu thereof "paragraph (6)(C)".

(2) Subparagraph (C) of section 2304(f)(6) of such title (as redesignated) is amended by striking out "paragraph (1)(B)(iii)" and inserting in lieu thereof "paragraph (1)(B)(iv)".

SEC. 819. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 301 for Defense Agencies for fiscal years 1990 and 1991 for operation and maintenance, $9,000,000 shall be available for each of such fiscal years only for the purpose of carrying out cooperative agreements under chapter 142 of title 10, United States Code.

(b) SET-ASIDE.—Of the amounts provided for in subsection (a), $600,000 shall be available for each of the fiscal years 1990 and 1991 for the purpose of carrying out programs sponsored by eligible entities named in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas (as defined in subparagraph (B) of section 2411(2) of such title). If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds authorized under this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

(c) ASSISTANCE FURNISHED TO CERTAIN INDIAN ORGANIZATIONS.—(1) Subsection (a) of section 2414 of title 10, United States Code, is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

> "(1) in the case of a program operating on a Statewide basis, other than a program referred to in clause (3) or (4), $300,000;
>
> "(2) in the case of a program operating on less than a Statewide basis, other than a program referred to in clause (3) or (4), $150,000;
>
> "(3) in the case of a program operated wholly within one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $150,000; or
>
> "(4) in the case of a program operated wholly within more than one service area of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(1)(D) of this title, $300,000.".

(2) Subsection (b) of such section is amended by inserting "or is operated wholly within one or more service areas of the Bureau of Indian Affairs by an eligible entity referred to in section 2411(a)(1)(D) of this title" after "or on less than a Statewide basis".

PART C—OTHER ACQUISITION POLICY MATTERS

SEC. 821. REQUIREMENT FOR CERTIFICATE OF INDEPENDENT PRICE DETERMINATION IN CERTAIN DEPARTMENT OF DEFENSE CONTRACT SOLICITATIONS

Regulations.
Territories, U.S.

The Secretary of Defense shall propose a revision to the Federal Acquisition Regulation to provide that the exception contained in part 3.103-1 of the Federal Acquisition Regulation for work performed by foreign suppliers outside the United States, its possessions, and Puerto Rico be repealed.

SEC. 822. UNIFORM RULES ON DISSEMINATION OF ACQUISITION INFORMATION

Regulations.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe in the Department of Defense Supplement to the Federal Acquisition Regulation a single, uniform regulation for the Department of Defense regarding dissemination of, and access to, acquisition information.

SEC. 823. LIMITATION ON AUTHORITY TO WAIVE BUY AMERICAN ACT REQUIREMENT

41 USC 10b-2.

(a) Determination by Secretary of Defense.—(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of that agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement, including any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products produced in that country.

(b) Report to Congress.—The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal years 1990 and 1991. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) Buy American Act Defined.—For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

10 USC 2325 note.

SEC. 824. ACQUISITION OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

(a) In General.—The Secretary of Defense shall—

(1) prescribe regulations as provided in subsection (b); and

(2) conduct an analysis as provided in subsection (c).

(b) Regulations.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall publish for public comment new regulations to carry out the requirements in this subsection and rescind any regulations that are inconsistent with the requirements of this subsection. The Secretary shall promulgate final regulations to carry out such requirements not later than 270 days after the date of the enactment of this Act.

(2) The Secretary of Defense shall develop a simplified uniform contract for the acquisition of commercial items by the Department of Defense and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

(A) those contract clauses that are required to implement provisions of law applicable to such an acquisition; and

(B) those contract clauses that are appropriate, as determined by the Secretary of Defense, for a contract for such an acquisition.

In addition to the clauses described in subparagraphs (A) and (B), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal

Government's interest in the particular contract, as determined in writing by the contracting officer for such contract.

(3) The Secretary of Defense shall require that a prime contractor under a Department of Defense contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(A) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(B) those contract clauses that are appropriate, as determined by the Secretary of Defense, for such a subcontract.

In addition to the clauses described in subparagraphs (A) and (B), a contractor under a Department of Defense contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract.

(4) The Secretary of Defense shall require the use, in appropriate circumstances, of a modified inspection clause with streamlined inspection procedures in each Department of Defense contract for the acquisition of commercial items awarded to a contractor that (A) has a proven record of high quality production, and (B) offers an appropriate warranty to protect the Federal Government's interest in acquiring a high quality product.

(5) The Secretary of Defense shall require the use, in appropriate circumstances, of standard commercial warranties in each Department of Defense contract for the acquisition of commercial items.

(6) The Secretary of Defense shall revise the regulations governing the applicability of the exemption contained in section 2306a(b)(1)(B) of title 10, United States Code, consistent with the public interest. In revising such regulations, the Secretary (A) shall address the standards for applying such exemption to contracts and subcontracts for items which are modifications to commercial items, components of commercial items, spare parts for commercial items, new commercial items, or commercial items which are no longer sold to the public, and (B) shall ensure that cost or pricing data are not required in connection with contracts and subcontracts qualifying for an exemption under the regulations as revised under this paragraph.

(c) ANALYSIS.—(1) The Secretary of Defense shall conduct an analysis of impediments to the acquisition of nondevelopmental items by the Department of Defense. In conducting the analysis, the Secretary shall consider, at a minimum, the following:

(A) Whether to expand the regulations governing the acquisition and distribution of commercial products to address the procurement of nondevelopmental items.

(B) Whether revisions to the regulations governing specifications, standards, and other purchase descriptions are necessary to implement the statutory requirement that product specifications be stated in terms of functions to be performed, performance required, or essential physical characteristics, and to minimize the use of specifications unique to the Department of Defense.

(C) Whether to establish a presumption that the Department of Defense should not request technical data on commercial items.

(D) Whether the Secretary of Defense should make greater use of the authority granted the Secretary in law to exempt defense contracts for commercial items from the application of various requirements.

(2) Not later than 270 days after the date of the enactment of this Act, the Secretary shall develop and submit to the Committees on Armed Services of the Senate and House of Representatives a plan of action for addressing any impediments identified in the analysis required by paragraph (1). The plan shall include a specific schedule for the following:

(A) Rescission of any regulations that are identified as impediments to the acquisition of nondevelopmental items.

(B) Publication for public comment of new regulations to carry out the plan.

(C) Submission to Congress of proposals for such legislative changes as may be needed to carry out the plan.

(d) TRAINING.—(1) The Secretary of Defense shall establish a program for training contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items.

(2) The training program shall provide, at a minimum, for the following:

(A) Training in the requirements of the regulations promulgated pursuant to this section, the requirements of section 2325 of title 10, United States Code, and regulations prescribed pursuant to that section.

(B) Training of contracting officers in the fundamental principles of price analysis and other alternative means of determining price reasonableness.

(C) Training of appropriate acquisition personnel in market research techniques and in the drafting of functional and performance specifications.

(e) DEMONSTRATION PROGRAM FOR ITEMS ISSUED TO MEMBERS.—(1) The Secretary of Defense shall carry out a demonstration program in accordance with this subsection with respect to the procurement of individual items of clothing issued to members of the Armed Forces. Under the demonstration program, the Secretary shall—

(A) identify those items of clothing that are the same as, or similar to, clothing items produced by commercial sources for sale to consumers other than the Armed Forces; and

(B) designate for acquisition in accordance with this subsection certain of such items (hereinafter in this subsection referred to as "demonstration items") as the Secretary considers appropriate for acquisition under the demonstration program.

(2) With respect to a portion (determined by the Secretary) of the contracts for demonstration items entered into by the Department of Defense, the Secretary shall—

(A) include in the solicitations for such items a specification reflecting design and functional requirements that are comparable to those used in the award of commercial contracts;

(B) require each offeror to submit a sample article of the item;

(C) provide in the evaluation criteria included in the solicitation that award of the contract will be made to the proposal which is most advantageous to the United States, considering only cost or price and other factors included in the solicitation;

(D) evaluate competitive proposals, either with or without discussions, and the sample article received in response to a solicitation for such items and award a contract in accordance with the evaluation criteria included in the solicitation; and

(E) require each contractor awarded a contract for such items to produce items identical in all major characteristics (including quality) to the sample article submitted with the contractor's bid or proposal.

(3) The demonstration program required under this subsection shall apply with respect to solicitations for demonstration items covered by the program issued after the end of the 180-day period beginning on the date of the enactment of this Act and before October 1, 1993.

SEC. 825. STUDY AND REPORT ON DEFENSE EXPORT FINANCING

President of U.S.

(a) STUDY.—The President shall conduct a study of export financing of defense articles. In the course of the study, the President shall—

(1) examine the effect of export financing on the ability of United States industry to compete in the international market for defense products;

(2) determine the extent to which other countries support commercial financing for defense exports through official government credit programs;

(3) determine the extent to which United States private capital is used to support defense exports and the obstacles that United States lending institutions face in providing additional support; and

(4) determine the feasibility and desirability of using existing or new Government export guarantee programs to provide greater private capital support for United States defense exports.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the President shall submit to Congress a report on the findings of the study under subsection (a).

PART D—PROVISIONS RELATING TO SMALL AND SMALL DISADVANTAGED BUSINESSES

SEC. 831. PROVISIONS RELATING TO SMALL DISADVANTAGED BUSINESSES

(a) EXTENSION OF CONTRACT GOAL.—Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended by striking out "and 1990" in subsections (a) and (h) and inserting in lieu thereof "1990, 1991, 1992, and 1993".

(b) PRICE DIFFERENTIAL.—Subsection (e) of such section is amended by adding at the end of paragraph (3) the following sentence: "The Secretary shall adjust the percentage specified in the preceding sentence for any industry category if available information clearly indicates that nondisadvantaged small business concerns in such industry category are generally being denied a reasonable opportunity to compete for contracts because of the use of that percentage in the application of this paragraph.".

(c) REPORT DEADLINE.—Subsection (g) of such section is amended—

(1) by striking out "Between May 1 and May 30" in paragraph (1) and inserting in lieu thereof "Not later than July 15"; and

(2) by striking out "Between October 1 and October 10" in paragraph (2) and inserting in lieu thereof "Not later than December 15".

10 USC 2301 note.

SEC. 832. CREDIT FOR INDIAN CONTRACTING IN MEETING CERTAIN MINORITY SUBCONTRACTING GOALS

(a) Regulations.—Subject to subsections (b) and (c), in any case in which a subcontracting goal is specified in a Department of Defense contract in the implementation of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)), credit toward meeting that subcontracting goal shall be given for—

(1) work performed in connection with that Department of Defense contract, and work performed in connection with any subcontract awarded under that Department of Defense contract, if such work is performed on any Indian lands and meets the requirements of paragraph (1) of subsection (b); or

(2) work performed in connection with that Department of Defense contract, and work performed in connection with any subcontract awarded under that Department of Defense contract, if the performance of such contract or subcontract is undertaken as a joint venture that meets the requirements of paragraph (2) of that subsection.

(b) Eligible Work.—(1) Work performed on Indian lands meets the requirements of this paragraph if—

(A) not less than 40 percent of the workers directly engaged in the performance of the work are Indians; or

(B) the contractor or subcontractor has an agreement with the tribal government having jurisdiction over such Indian lands that provides goals for training and development of the Indian workforce and Indian management.

(2) A joint venture undertaking to perform a contract or subcontract meets the requirements of this paragraph if—

(A) an Indian tribe or tribally owned corporation owns at least 50 percent of the joint venture;

(B) the activities of the joint venture under the contract or subcontract provide employment opportunities for Indians either directly or through the purchase of products or services for the performance of such contract or subcontract; and

(C) the Indian tribe or tribally owned corporation manages the performance of such contract or subcontract.

(c) Extent of Credit.—The amount of the credit given toward the attainment of any subcontracting goal under subsection (a) shall be—

(1) in the case of work performed as described in subsection (a)(1), the value of the work performed; and

(2) in the case of a contract or subcontract undertaken to be performed by a joint venture as described in subsection (a)(2), an amount equal to the amount of the contract or subcontract multiplied by the percentage of the tribe's or tribally owned corporation's ownership interest in the joint venture.

(d) Regulations.—The Secretary of Defense shall prescribe regulations for the implementation of this section.

(e) Definitions.—In this section:

(1) The term "Indian lands" has the meaning given that term by section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4)).

(2) The term "Indian" has the meaning given that term by section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d)).

(3) The term "Indian tribe" has the meaning given that term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(4) The term "tribally owned corporation" means a corporation owned entirely by an Indian tribe.

SEC. 833. TEST PROGRAM FOR USE OF BOND WAIVER AUTHORITY UNDER SMALL BUSINESS ACT TO ASSIST CERTAIN SMALL DISADVANTAGED BUSINESS CONCERNS

15 USC 636 note.

The Secretary of Defense and the Small Business Administration shall establish a program for fiscal years 1990 and 1991 to test the use of the authority provided by section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)). Under the test program, the Secretary of Defense shall make every reasonable effort during each such fiscal year to award not less than 30 contracts for construction projects (including repair and alteration of existing facilities) to participants in the Minority Small Business and Capital Ownership Development Program of the Small Business Administration who have been granted surety bond exemptions under the authority provided by section 7(j)(13)(D) of such Act.

SEC. 834. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS

15 USC 637 note.

(a) Test Program.—(1) The Secretary of Defense shall establish a test program under which one contracting activity in each military department and Defense Agency is authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive small business subcontracting plans will result in an increase in opportunities provided for small business concerns under Department of Defense contracts.

(2) In developing the test program, the Secretary of Defense shall—

(A) consult with the Administrator of the Small Business Administration; and

(B) provide an opportunity for public comment on the test program.

(b) Comprehensive Small Business Subcontracting Plan.—(1) In a demonstration project under the test program, the Secretary of a military department or head of a Defense Agency shall negotiate, monitor, and enforce compliance with a comprehensive subcontracting plan with a Department of Defense contractor described in paragraph (3).

(2) The comprehensive subcontracting plan—

(A) shall provide for small business concerns to participate as subcontractors in the contracts awarded by the Secretary or agency head to the contractor (or any division or operating element of the contractor) to which the subcontracting plan applies; and

(B) shall apply to the entire business organization of the contractor or to one or more of the contractor's divisions or operating elements, as specified in the subcontracting plan.

(3) A Department of Defense contractor referred to in paragraph (1) is, with respect to a comprehensive subcontracting plan, a business concern that, during the fiscal year ending on September 30, 1989—

(A) pursuant to at least five Department of Defense contracts, furnished supplies or services (including professional services) to the Department of Defense, engaged in research and development for the Department, or performed construction for the Department; and

(B) was paid $25,000,000 or more for such contract activities.

(c) WAIVER OF CERTAIN SMALL BUSINESS ACT SUBCONTRACTING PLAN REQUIREMENTS.—A Department of Defense contractor is not required to negotiate or submit a subcontracting plan under paragraph (4) or (5) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) with respect to a Department of Defense contract if—

(1) the contractor has negotiated a comprehensive subcontracting plan under the test program that includes the matters specified in section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6));

(2) such matters have been determined acceptable by the Secretary of the military department or head of a Defense Agency negotiating such comprehensive subcontracting plan; and

(3) the comprehensive subcontracting plan applies to the contract.

(d) FAILURE TO MAKE A GOOD FAITH EFFORT TO COMPLY WITH A COMPANY-WIDE SUBCONTRACTING PLAN.—A contractor that has negotiated a comprehensive subcontracting plan under the test program shall be subject to section 8(d)(4)(F) of the Small Business Act (15 U.S.C. 637(d)(4)(F)) regarding the assessment of liquidated damages for failure to make a good faith effort to comply with its company-wide plan and the goals specified in that plan.

(e) TEST PROGRAM PERIOD.—The test program authorized by subsection (a) shall begin on October 1, 1990, unless Congress adopts a resolution disapproving the test program. The test program shall terminate on September 30, 1993.

(f) REPORT.—(1) Not later than March 1, 1994, the Secretary of Defense shall submit a report on the results of the test program to the Committees on Armed Services and on Small Business of the Senate and the House of Representatives.

(2) Before submitting such report to the committees referred to in paragraph (1), the Secretary shall transmit the proposed report to the Administrator of the Small Business Administration. The report submitted to the committees shall include any comments and recommendations relating to the report that are transmitted to the Secretary by the Administrator before the date specified in such paragraph.

(g) DEFINITIONS.—As used in this section:

(1) The term "small business concern" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)), and includes a small business concern owned and controlled by socially and economically disadvantaged individuals.

(2) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall have the same meaning as is provided in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

PART E—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

SEC. 841. CRITICAL TECHNOLOGIES PLANNING

(a) NATIONAL CRITICAL TECHNOLOGIES PANEL.—(1) The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VI—NATIONAL CRITICAL TECHNOLOGIES PANEL

"ESTABLISHMENT

"SEC. 601. The Director of the Office of Science and Technology Policy shall establish within that office a National Critical Technologies Panel (hereinafter in this title referred to as the 'panel'). The panel shall prepare the biennial national critical technologies report required by section 603. 42 USC 6681.

"MEMBERSHIP

"SEC. 602. (a) The panel shall consist of 13 members appointed from among persons who are experts in science and engineering as follows: 42 USC 6682.

"(1) The Director of the Office of Science and Technology Policy shall appoint nine members, of whom—

"(A) three shall be Federal Government officials; and

"(B) six shall be appointed from persons in private industry and higher education.

"(2) The Secretary of Defense shall appoint one member, who shall be an official of the Department of Defense.

"(3) The Secretary of Energy shall appoint one member, who shall be an official of the Department of Energy.

"(4) The Secretary of Commerce shall appoint one member, who shall be an official of the Department of Commerce.

"(5) The Administrator of the National Aeronautics and Space Administration shall appoint one member, who shall be an official of that agency.

"(b)(1) Members appointed under subsection (a)(1)(B) shall serve for a term of two years.

(2) Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

"(c) The Director shall designate one of the members appointed under subsection (a)(1)(A) as chairman of the panel.

"BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT

"SEC. 603. (a) The panel shall submit to the President a biennial report on national critical technologies. Each such report shall identify those product technologies and process technologies that the panel considers to be national critical technologies. The number of the such technologies identified in any such report may not exceed 30. The reports shall be submitted not later than October 1 of even-numbered years. 42 USC 6683.

"(b) For purposes of subsection (a), a product or process technology may be considered to be a national critical technology if the panel determines it to be a technology that it is essential for the United States to develop to further the long-term national security and economic prosperity of the United States.

"(c) Each such report shall include, with respect to each technology identified in the report, the following information:

"(1) The reasons for the panel's selection of that technology.

"(2) The state of the development of that technology in the United States and in other countries.

"(3) An estimate of the current and anticipated level of research and development effort in the United States, including anticipated milestones for specific accomplishments, by—

"(A) the Federal Government;

"(B) State and local governments;

"(C) private industry; and

"(D) colleges and universities.

President of U.S.

"(d) Not later than 30 days after the date on which a report is submitted to the President under this section, the President shall transmit the report, together with any comments that the President considers appropriate, to Congress.

"ADMINISTRATION AND FUNDING OF PANEL

42 USC 6684.

"SEC. 604. The Director of the Office of Science and Technology Policy shall provide administrative support for the panel. Funds for necessary expenses of the panel shall be provided for fiscal years after fiscal year 1990 from funds appropriated for that Office.

"EXPIRATION

42 USC 6685.

"SEC. 605. The provisions of this title shall cease to be effective on December 31, 2000, and the panel shall terminate on that date.".

42 USC 6684 note.

(2) The Secretary of Defense shall reimburse the Director of the Office of Science and Technology Policy for the reasonable expenses, not to exceed $500,000, incurred by the National Critical Technologies Panel during fiscal year 1990.

(b) ANNUAL DEFENSE CRITICAL TECHNOLOGIES PLAN.—(1) Chapter 148 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2508. Annual defense critical technologies plan

"(a) ANNUAL PLAN.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual plan for developing the technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most critical to ensuring the long-term qualitative superiority of United States weapon systems. The number of such technologies identified in any plan may not exceed 20. Each such plan shall be developed in consultation with the Secretary of Energy.

"(2) In selecting the technologies to be included in the plan for any year, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies, including the technologies identified in the most recent biennial report submitted to the President by the National Critical Technologies Panel under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

"(3) Each such plan shall cover the 15 fiscal years following the year in which the plan is submitted.

Classified information. Public information.

"(4) Such plan shall be submitted not later than March 15 of each year and shall be submitted in both classified and unclassified form.

"(b) PRIORITIES AND FUNDING.—Each plan submitted under subsection (a) shall—

"(1) designate priorities for development of the technologies identified in the plan; and

"(2) specify the funding requirements of the Department of Defense, the Department of Energy, and other appropriate departments and agencies of the Federal Government for the development of the technologies identified in the plan for the five fiscal years following the year in which the plan is submitted.

"(c) CONTENT OF PLAN.—Each plan submitted under subsection (a) shall include, with respect to each technology identified in the plan, the following:

"(1) The reasons for the selection of that technology, including—

"(A) a discussion of the consideration given to the most recent biennial report submitted to the President under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976; and

"(B) the relationship of the technology to the overall science and technology program of the Department of Defense and the long-term funding strategy associated with that program.

"(2) A designation of the lead organization within the Department of Defense or the Department of Energy responsible for the development of the technology.

"(3) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(4) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for—

"(A) the five preceding fiscal years; and

"(B) the fiscal year beginning in the year in which the plan is submitted; and

"(C) each fiscal year thereafter for which the Secretary of Defense, with respect to the Department of Defense, and the Secretary of Energy, with respect to the Department of Energy, has prepared a budget.

"(5) A comparison of the positions of the United States and the Soviet Union in the development of that technology.

"(6) The potential contributions that the allies of the United States and other industrialized nations can make to meet the needs of the United States and its allies for that technology.

"(7) A comparison of the extent to which the United States has access to research conducted on such technology in allied nations and other industrialized nations with the extent to which such nations have access to research conducted in the United States on such technology and a discussion of the effects of any imbalance in such access on development of that technology.

"(8) With respect to the development of such technology—

"(A) a comparison of the relative positions of the United States and other industrialized countries that are prominent in the development of such technology;

"(B) the trends in the relevant industrial bases of such countries;

"(C) the competitiveness of the United States industrial base supporting research in, and the development and use of, such technology;

"(D) the extent to which the United States should depend on other countries for the development of such technology; and

"(E) the extent to which action should be taken by the Federal Government to maintain and improve—

"(i) research efforts in the United States; and

"(ii) the industrial base supporting such efforts.

"(9) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2508. Annual defense critical technologies plan.".

(c) Agreements for Studies.—(1) Section 2368 of title 10, United States Code, is amended to read as follows:

"§ 2368. Critical technologies research

"(a) Agreements.—The Secretary of Defense may enter into agreements with the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine for the conduct of studies in fields of research and development essential to the development of the technologies identified in the most recent biennial report submitted to the President by the National Critical Technologies Panel under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

"(b) Consultation with Director of OSTP.—An agreement under subsection (a) may be entered into only after consultation with the Director of the Office of Science and Technology Policy.

"(c) Funding Limitation.—The Secretary may not obligate more than $500,000 for agreements under subsection (a) in any fiscal year.".

(2) The item relating to that section 2368 in the table of sections at the beginning of chapter 139 of such title is amended to read as follows:

"2368. Critical technologies research.".

SEC. 842. DEFENSE INDUSTRIAL INFORMATION AND CRITICAL INDUSTRIES PLANNING

(a) Expanded Functions of the Defense Industrial Base Office.—Section 2503 of title 10, United States Code, is amended—

(1) by striking out "at a minimum—" in the matter preceding paragraph (1) and inserting in lieu thereof "at a minimum, do the following:";

(2) by amending the first word of each of paragraphs (1) through (4) so that the initial letter of such word is uppercase;

(3) by striking out the semicolon at the end of each of paragraphs (1) and (2) and inserting in lieu thereof a period;

(4) by striking out "; and" at the end of paragraph (3) and inserting in lieu thereof a period; and

(5) by adding at the end the following new paragraph:

"(5) Establish and implement a consolidated analysis program (A) to assess and monitor worldwide capabilities in technologies critical to the national security of the United States, and (B) to monitor defense-related manufacturing capabilities of the United States.".

(b) Critical Industries Planning.—Section 2503 of title 10, United States Code, as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(6) Identify the industries most critical for national security applications of the technologies identified in the most recent annual defense critical technologies plan submitted under section 2508 of this title.".

(c) Report on Defense Industrial Base.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the actions taken under section 2503 of title 10, United States Code, for the improvement of the defense industrial base of the United States.

(2) The report shall include Under Secretary's analysis of the condition of the defense industrial base of the United States, particularly with respect to the financial ability of United States businesses—

(A) to conduct research and development activities relating to critical defense technologies, including the critical technologies identified in the first annual defense critical technologies plan submitted pursuant to section 2508 of title 10, United States Code, as added by section 841(b) of this Act;

(B) to apply those technologies to the production of goods and the furnishing of services; and

(C) to engage in any other activities determined by the Secretary of Defense to be critical to the national security.

(3) In preparing the analysis required in paragraph (2), the Secretary, acting through the Under Secretary of Defense for Acquisition, shall consider—

(A) trends in the profitability, levels of capital investment, spending on research and development, and debt burden of businesses involved in research on, development of, and application of critical defense technologies;

(B) the consequences of mergers, acquisitions, and takeovers of such businesses;

(C) the results of current Department of Defense spending for critical defense technologies; and

(D) the likely future level of Department of Defense spending for such technologies during the four fiscal years following fiscal year 1990 and the likely results of that level of spending.

(4) The report under this subsection shall be submitted not later than March 15, 1990.

SEC. 843. SCIENTIFIC AND TECHNICAL EDUCATION

(a) Findings.—Congress makes the following findings:

(1) The possession and maintenance of technologically superior systems in the Department of Defense is a critical part of the national defense strategy of the United States.

(2) Defense programs use a significant portion of the entire science and technology workforce of the United States.

(3) The science and technology workforce of the United States has been declining in recent years and that decline threatens

the supply of qualified engineers and scientists for the Department of Defense in the future.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the Secretary of Defense should take such actions as may be necessary and appropriate to promote and encourage, at precollege through post-doctoral levels, an increase in the number of citizens and nationals of the United States who pursue courses of study in science, engineering, and other technical disciplines.

(c) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, by February 1, 1990, a report on current, expanded, and proposed new programs of the Department of Defense and, as appropriate, proposed interagency programs to preserve and perpetuate an effective scientific and engineering workforce for the United States for the future. The Secretary, in coordination with the Director of the Office of Science and Technology Policy, shall include in the report an evaluation of the following concepts:

(1) Summer internships at Department of Defense laboratories for precollege teachers of sciences, engineering, or other technical disciplines.

(2) An award program for exceptional precollege teachers in sciences, engineering, or other technical disciplines.

(3) A scholarship program for undergraduates in scientific or technical education who plan to teach those disciplines at the precollege level.

(4) Expanding the Barry Goldwater Scholarship and Excellence in Education Program or any other such program that the Secretary and the Director mutually agree would promote increases in scientific and engineering careers.

(d) NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS.—(1) Part III of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 111—NATIONAL DEFENSE SCIENCE AND ENGINEERING GRADUATE FELLOWSHIPS

"Sec.
"2191. Graduate fellowships.

"§ 2191. Graduate fellowships

Regulations.

"(a) The Secretary of Defense shall prescribe regulations providing for the award of fellowships to citizens and nationals of the United States who agree to pursue graduate degrees in science, engineering, or other fields of study designated by the Secretary to be of priority interest to the Department of Defense.

"(b) A fellowship awarded pursuant to regulations prescribed under subsection (a) shall be known as a 'National Defense Science and Engineering Graduate Fellowship'.

Minorities.
Women.
Disabled persons.

"(c) National Defense Science and Engineering Graduate Fellowships shall be awarded solely on the basis of academic ability. The Secretary shall take all appropriate actions to encourage applications for such fellowships of persons who are members of groups (including minority groups, women, and disabled persons) which historically have been underrepresented in science and technology fields. Recipients shall be selected on the basis of a nationwide competition. The award of a fellowship under this section may not

be predicated on the geographic region in which the recipient lives or the geographic region in which the recipient will pursue an advanced degree.

"(d) The regulations prescribed under this section shall include—

"(1) the criteria for award of fellowships;

"(2) the procedures for selecting recipients;

"(3) the basis for determining the amount of a fellowship; and

"(4) the maximum amount that may be awarded to an individual during an academic year.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of such title are each amended by inserting after the item relating to chapter 110 the following new item:

"111. National Defense Science and Engineering Graduate Fellowships .... 2191".

(e) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201, $10,500,000 of the amount appropriated for fiscal year 1990 and $11,000,000 of the amount authorized to be appropriated for fiscal year 1991 shall be available for National Defense Science and Engineering Graduate Fellowships provided for under chapter 111 of title 10, United States Code (as added by subsection (c)).

PART F—MISCELLANEOUS

SEC. 851. AUTHORITY TO CONTRACT WITH UNIVERSITY PRESSES FOR PRINTING, PUBLISHING, AND SALE OF HISTORY OF THE OFFICE OF THE SECRETARY OF DEFENSE

19 USC 2242 note.

The Government Printing Office, on behalf of the Secretary of Defense, shall contract for services for the printing, publishing, and sale of volumes III and IV of the publication entitled "History of the Office of the Secretary of Defense" using procurement procedures that exclude sources other than university presses.

SEC. 852. PROCUREMENT FROM COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

(a) SENSE OF CONGRESS.—It is the sense of Congress that it should be a very important consideration in the procurement of property, services, or technology by the Department of Defense whether such procurement is from any person of any country which has been identified by the United States Trade Representative, on the advice of the Commissioner of Patents and Trademarks in the Department of Commerce and the Register of Copyrights, pursuant to section 182(a)(2) of the Trade Act of 1974 (19 U.S.C. 2242) as denying adequate and effective protection of intellectual property rights or fair and equitable market access to United States persons that rely upon intellectual property protection.

(b) REPORT.—(1) If the Secretary of Defense takes any action, upon the direction of the United States Trade Representative (in consultation with the Commissioner of Patents and Trademarks and the Register of Copyrights), with respect to the procurement of property, services, or technology by the Department of Defense on the basis of the consideration set forth in subsection (a), the Secretary shall submit promptly to the committees described in paragraph (2) a report describing the nature of such action and the reasons for such action.

(2) The committees to which the report required by paragraph (1) shall be submitted are the Committees on Armed Services, on Finance, and on the Judiciary of the Senate and the Committees on Armed Services, on Ways and Means, and on the Judiciary of the House of Representatives.

SEC. 853. ACQUISITION LAWS TECHNICAL AMENDMENTS

(a) Repeal of Duplicate Provision; Restoration of Inadvertently Stricken Provision.—(1) Section 2324 of title 10, United States Code, is amended—

(A) by striking out "(l)(1)" and all that follows through "In subsection (k):" and inserting in lieu thereof "(6) In this subsection:";

(B) by redesignating subsection (l) as subsection (m); and

(C) by inserting after subsection (k) the text of subsection (k) of such section as in effect on the day before the date of the enactment of the Major Fraud Act of 1988 (Public Law 100-700; 102 Stat. 4631 et seq.), with such text designated as subsection (l).

10 USC 2324 note.

(2) Section 833(c) of Public Law 100-456 (102 Stat. 2024) is amended by striking out "section 2324(k)" and inserting in lieu thereof "section 2324(m)".

Effective date. 10 USC 2324 note.

(3) The amendments made by this subsection shall take effect as of November 19, 1988.

(b) References to FAR.—(1) Section 2302 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) The term 'Federal Acquisition Regulation' means the Federal Acquisition Regulation issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)).".

(2) Section 2320(a) of such title is amended by striking out paragraph (4).

(3) Clause (i) of section 2324(k)(5)(B) of such title is amended by striking out "the single" and all that follows through the period and inserting in lieu thereof "the Federal Acquisition Regulation.".

(c) Procurement Management Personnel Clarifications.—(1) Paragraph (2) of section 1621 of title 10, United States Code, is amended to read as follows:

"(2) The term 'procurement command' means any of the following:

"(A) The Army Materiel Command, the Army Information Systems Command, and the Army Strategic Defense Command.

"(B) Any Navy weapons systems command, the Navy Strategic Systems Program Office, and the Marine Corps Research, Development and Acquisition Command.

"(C) The Air Force Systems Command and the Air Force Logistics Command.

"(D) Any successor organization to any command or office named in subparagraphs (A) through (C).".

(2) Section 1622(b)(2) of such title is amended—

(A) by striking out "acquisition, support, and maintenance of weapon systems," and inserting in lieu thereof "acquisition of weapon systems or related items of supply,"; and

(B) by inserting before the period the following: "or to a staff of a service acquisition executive, program executive officer, or program manager of a military department".

(3) Section 1623 of such title is amended—

(A) in subsection (a), by inserting "or on the staff of a service acquisition executive, program executive officer, or program manager of a military department" before the period at the end of the first sentence; and

(B) in subsection (b), by striking out "procurement command," and inserting in lieu thereof "procurement command or on the staff of a service acquisition executive, program executive officer, or program manager of a military department,".

(4) The amendments made by this subsection shall take effect as of July 1, 1989.

Effective date.
10 USC 1621 note.

(d) Correction of Reference.—Section 2304(b)(2) of title 10, United States Code, is amended—

(1) by striking out "An executive agency" and inserting in lieu thereof "The head of an agency";

(2) by inserting "concerns" before "other than"; and

(3) by inserting before the period the following: "and concerns other than small business concerns, historically Black colleges and universities, and minority institutions in furtherance of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)".

(e) Cross-Reference Correction.—Section 2411(1)(D) of title 10, United States Code, is amended—

(1) by striking out "section 4(c)" and inserting in lieu thereof "section 4(l)"; and

(2) by striking out "450(c)" and inserting in lieu thereof "450b(l)".

(f) Correction of Inconsistency.—Section 2305(b)(4)(D) of title 10, United States Code, is amended by inserting "cost or" after "considering only".

TITLE IX—MATTERS RELATING TO NATO MEMBER NATIONS AND OTHER ALLIES

Part A—Conventional Force Reductions in Europe

SEC. 901. FRAMEWORK FOR DETERMINING CONVENTIONAL FORCE REQUIREMENTS IN A CHANGING THREAT ENVIRONMENT

(a) Evaluation of Effect of Warsaw Pact Reductions and of Possible CFE Agreement.—The Secretary of Defense shall submit to the congressional defense committees a report providing the Secretary's evaluation of the effect upon requirements of the United States for conventional forces and for military spending that could be anticipated under the following assumptions:

Reports.

(1) The full implementation of the unilateral force reductions in, and subsequent reorganization of, forces of the Soviet Union described by the President of the Soviet Union on December 7, 1988, and the unilateral force reductions subsequently announced by the other members of the Warsaw Pact.

Union of Soviet Socialist Republics.

(2) Entry into force of a conventional arms control agreement establishing rough parity in conventional forces in Europe between forces of the North Atlantic Treaty Organization and the Warsaw Pact at equal levels (at approximately 85 to 90 percent of NATO's current inventory) of tanks, artillery, armored troop carriers, combat helicopters, and land-based combat aircraft.

(b) MATTERS TO BE INCLUDED IN EVALUATION.—In carrying out the evaluation required by subsection (a) of the unilateral force reductions referred to in paragraph (1) of that subsection and the potential effect of an agreement referred to in paragraph (2) of that subsection, the Secretary shall include in the evaluation (at a minimum) the following (stated for both the near-term and mid-term):

(1) An assessment of the threat to NATO under the assumptions specified in each of paragraphs (1) and (2) of subsection (a).

(2) The effect on the defense strategy of the United States for meeting its NATO commitments in the changing threat environment, including the effect on the ability of NATO to defend against an attack by the Warsaw Pact (A) on short warning, or (B) during a crisis in Europe.

(3) The effect on—

(A) the mix of active and reserve forces of the United States;

(B) the ratio of (i) conventional forces of the United States deployed in the European theater, to (ii) conventional forces of the United States deployed in the continental United States; and

(C) air and sea lift requirements.

(3) The effect on operational military concepts of the United States and NATO (such as Follow-on Forces Attack (FOFA), AirLand Battle, Maritime Strategy, and Rapid Reinforcement) that were initially developed to counter the large advantage of the Warsaw Pact in conventional land forces in the European theater.

(4) The effect on equipment requirements of the United States for meeting its commitments to NATO in the 1990s.

(c) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted concurrently with the submission to Congress of the President's budget for fiscal year 1991 pursuant to section 1105 of title 31, United States Code. The report shall be submitted in both classified and unclassified form.

SEC. 902. IMPLICATIONS OF MUTUAL REDUCTIONS IN CONVENTIONAL FORCES IN EUROPE BY NATO AND WARSAW PACT MEMBER NATIONS

(a) COMMENDATION OF PRESIDENT'S CONVENTIONAL ARMS REDUCTION INITIATIVE.—Congress commends and supports the President's conventional arms control initiative announced in Brussels on May 29, 1989, in which the President proposed, and the North Atlantic Treaty Organization (NATO) agreed, that NATO expand its negotiating position at the negotiations on reductions in conventional forces in Europe (begun in Vienna on March 9, 1989, and known as the "CFE Talks") to include—

(1) substantial reductions by each side to equal ceilings of helicopters and combat aircraft; and

(2) a reduction to a common ceiling of United States military personnel stationed in Western Europe and Soviet military personnel stationed in Eastern Europe.

(b) PRESIDENTIAL REPORT.—(1) Not later than six months after the date of the enactment of this Act, the President shall submit to Congress an unclassified report, with classified annexes as necessary, on the foreign policy and military implications to NATO and to the Warsaw Pact of significant reductions of conventional forces by NATO and Warsaw Pact countries to a ceiling which is the same for both sides.

(2) The report shall address possible force reduction scenarios for a second round of CFE negotiations and shall be based upon two different assumptions with regard to the level of reductions in personnel and equipment to be made. Under the first assumption, personnel and equipment would be reduced to a level 25 percent below current NATO levels. Under the second assumption, personnel and equipment would be reduced to a level 50 percent below current NATO levels.

(3) The report shall include the following:

(A) A comprehensive net assessment of the current balance between NATO forces and Warsaw Pact forces and of the overall trends in that balance, including an assessment of the trends in active and reserve forces and in total equipment holdings in stationed and indigenous forces.

(B) A description of the likely alternative force postures that could be adopted by member nations of both alliances (particularly by the United States and the Soviet Union) under each of the assumptions analyzed, together with a description of the possible effects of restructuring of both NATO and Warsaw Pact forces in Europe for defensive purposes.

(C) A statement of the costs (or savings) to the United States, over at least a seven-year period, estimated to be associated with each force posture described under subparagraph (B), together with an analysis of how those costs (or savings) were determined.

(D) An analysis of the implications for NATO strategy, security, and military policy under each of the reduction levels referred to in paragraph (2), including a net assessment of the resulting balance between NATO forces and Warsaw Pact forces.

(E) An assessment of the effects under each of the reduction levels referred to in paragraph (2) (including the alternative force postures under each assumption) upon the stability of the conventional balance of forces in Europe.

(F) An assessment of the ability of NATO to defend Europe under each of the assumed reduction levels in the event of an attack by the Warsaw Pact (i) on short warning, or (ii) during a crisis in Europe.

(G) An assessment of the effects under each of the reduction levels referred to in paragraph (2) on—

(i) the short-range nuclear force requirements of NATO;

(ii) the requirements of the United States for POMCUS and war-reserve stocks;

(iii) the requirements of NATO for airlift and sealift based in the United States and for reinforcing units from the United States; and

(iv) the ability of the United States to meet global military requirements.

SEC. 903. REPORT ON VERIFICATION MEASURES FOR POSSIBLE CONVENTIONAL ARMS CONTROL AGREEMENT

President of U.S.

(a) **Report.**—The President shall submit to Congress a report on the types of measures that would be required to verify the proposal for reductions in conventional forces in Europe adopted by the member nations of the North Atlantic Treaty Organization (NATO) on May 30, 1989.

(b) MATTERS TO BE INCLUDED IN REPORT.—The President shall include in the report under subsection (a) the following:

(1) A discussion of the types of information that it would be necessary for the parties to such an agreement to exchange for such verification.

(2) A discussion of the range of options under consideration by the executive branch for defining what constitutes a militarily significant violation of a conventional arms control agreement.

(3) A description of the national technical means, on-site inspections, and other cooperative measures that would be necessary to detect violations of such an agreement, including—

(A) an analysis of the measures that would be required to monitor (i) the withdrawal and demobilization of military personnel, and (ii) the withdrawal and (if required by the agreement) the destruction of military equipment provided for in any such agreement; and

(B) the President's judgment on those on-site inspections and confidence building measures under consideration that are the most acceptable, and the least acceptable, to the NATO alliance and the Warsaw Pact, including an assessment of the counterintelligence aspects of such measures for NATO.

(4) A discussion of the procedures the NATO alliance would follow in the event of a violation of such an agreement by a member of the Warsaw Treaty Organization.

(c) DATA BASE ANALYSIS.—(1) The report under subsection (a) shall also include a comprehensive analysis of—

(A) the uncertainties in the data bases to be used by United States intelligence with respect to the military forces of NATO member nations and Warsaw Pact member nations located in the proposed areas of reduction;

(B) the uncertainties in the estimates of the trends in such forces; and

(C) the differences in the data bases and counting rules used by the United States, the allies of the United States, and the Warsaw Pact member nations.

(2) The analysis under paragraph (1) shall address separately the uncertainties in the estimates of each of the following:

(A) Active forces.

(B) Reserve forces.

(C) Equipment subject to reductions and ceilings.

(D) Indigenous forces.

(E) Stationed forces.

(d) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than March 1, 1990. The report shall include such comments and recommendations as the President determines appropriate. The report shall be submitted in both classified and unclassified versions.

PART B—BURDEN SHARING

SEC. 911. REDUCTION IN AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE

(a) REDUCTION REQUIRED.—Section 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended by striking out "326,414" and inserting in lieu thereof "311,855".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 30, 1991. 22 USC 1928 note.

SEC. 912. ACTIVE-DUTY FORCES IN EUROPE OF MEMBER NATIONS OF NATO

22 USC 1928 note.

(a) FINDINGS.—Congress makes the following findings:

(1) Member nations of the North Atlantic Treaty Organization (NATO), at the initiative of the President, have presented to the nations of the Warsaw Pact a comprehensive proposal concerning reductions in conventional forces in Europe for consideration in the negotiations on Conventional Armed Forces in Europe (CFE).

(2) An agreement based on that proposal would significantly enhance security and stability in Europe and the cause of peace worldwide.

(3) Irrespective of developments in the CFE negotiations, several member nations of NATO are considering making significant unilateral reductions over the next several years in the number of their active-duty forces in Europe.

(4) Such unilateral reductions in active-duty forces before an agreement on CFE enters into force would—

(A) undercut efforts by NATO to improve its conventional defense posture in Europe, increase reliance by NATO on the threat of the early use of nuclear weapons to deter aggression, and undermine the NATO arms control negotiating posture in the CFE negotiations; and

(B) exacerbate longstanding burdensharing tensions among member nations of NATO.

(5) Despite shifts in relative economic power from the United States to some of the major allies of the United States, the costs of mutual defense continue to be borne disproportionately by the United States.

(6) Adjustments in burdensharing are long overdue.

(b) DEFINITIONS.—For purposes of this section:

(1) The term "active-duty forces in Europe" means those active-duty military personnel assigned to permanent duty ashore in European member nations of NATO, except that such term does not include INF-related forces.

(2) The term "INF-related forces" means those active-duty military personnel assigned to permanent duty ashore in European member nations of NATO who are to be demobilized or withdrawn from Europe as a result of the elimination of the intermediate-range nuclear weapons of the United States pursuant to the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-range and Shorter-range Missiles, signed on December 8, 1987 (commonly referred to as the "INF Treaty").

(3) The term "U.S. end-strength level in Europe" means the actual number of active-duty forces in Europe of the Armed Forces of the United States at the end of a fiscal year.

(4) The term "allied forces end-strength level in Europe" means the actual number of active-duty forces in Europe of the armed forces of member nations of NATO (other than the United States) in Europe at the end of a fiscal year.

(c) Baseline Report on Active-Duty Forces in Europe.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report on the number of the active-duty forces in Europe of the member nations of NATO. The report shall identify the following:

(1) The U.S. end-strength level in Europe for fiscal year 1989.

(2) The allied forces end-strength level in Europe for fiscal year 1989.

(3) The actual number of active-duty forces in Europe of the armed forces of each member nation of NATO (other than the United States) at the end of fiscal year 1989.

(4) The ratio (expressed in terms of a percentage) of—

(A) the U.S. end-strength level in Europe; to

(B) the allied forces end-strength level in Europe.

(d) U.S.-Allied Forces Ratio.—(1) The ratio identified for fiscal year 1989 under subsection (c)(4) is hereinafter in this section referred to as the "baseline U.S.-allied forces ratio".

(2) The ratio identified in an annual report under subsection (e) is hereinafter in this section referred to as the "U.S.-allied forces ratio".

(e) Annual Report on Maintaining Active-Duty Forces in Europe.—(1) During each of the fiscal years 1991, 1992, and 1993, the Secretary of Defense shall prepare a report identifying for the preceding fiscal year the following:

(A) The U.S. end-strength level in Europe for the fiscal year covered by the report.

(B) The allied forces end-strength level in Europe for such fiscal year.

(C) The ratio (expressed in terms of a percentage) of the U.S. end-strength level in Europe to the allied forces end-strength level in Europe for the fiscal year covered by the report.

(2) The Secretary shall include in each such report the following:

(A) A statement of whether there has been any change in the U.S.-allied forces ratio for such fiscal year compared with—

(i) the baseline U.S.-allied forces ratio; and

(ii) after fiscal year 1991, the U.S-allied forces ratio for the fiscal year immediately preceding the fiscal year covered by such report.

(B) In the case of a change in the U.S.-allied forces ratio for such fiscal year, a description of the amount of such change and any explanation of the cause for such change.

(C) A discussion of any action taken by the United States during such fiscal year to encourage member nations of NATO (other than the United States) to increase the number of their active-duty forces in Europe and the results of that action.

(3)(A) Except as provided in subparagraph (B), the report required by paragraph (1) shall be submitted to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives not later than April 1 of each fiscal year referred to in such paragraph.

(B) The Secretary shall be considered to have complied with subparagraph (A) in a fiscal year if the Secretary includes the information required by paragraphs (1) and (2) in the report submitted in such year pursuant to section 1002(d)(2) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

(f) LIMITATION ON OBLIGATION OF FUNDS.—(1) If the Secretary of Defense states in a report prepared under subsection (e) that the U.S.-allied forces ratio for the fiscal year covered by such report is greater than the baseline U.S.-allied forces ratio by more than one-tenth of one percentage point—

President of U.S.

(A) the President shall undertake appropriate diplomatic initiatives to persuade the member nations of NATO (other than the United States) to increase the number of their active-duty forces in Europe so that the U.S.-allied forces ratio no longer exceeds the baseline U.S.-allied forces ratio; and

(B) funds appropriated to or for the use of the Department of Defense may not be obligated or expended for the next fiscal year to support active-duty forces in Europe of the Armed Forces of the United States at an end-strength level that would cause the U.S-allied forces ratio in such fiscal year to exceed the baseline U.S.-allied forces ratio by more than one-tenth of one percentage point.

President of U.S.

(2) The President may waive the provisions of paragraph (1) if the President determines that such action is critical to the national security of the United States. The President shall immediately notify Congress of such a waiver and the reasons for such waiver.

(3) Paragraph (1) shall not apply in the event of a declaration of war or an armed attack on any member nation of NATO or in the event that a comprehensive arms reduction agreement enters into force as a result of the negotiations on Conventional Armed Forces in Europe (CFE).

(g) END-STRENGTH PERMANENT CEILING.—Nothing in this section shall be construed to permit the obligation or expenditure of funds to support an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO at any level in excess of the permanent ceiling specified in section 1002(c)(1) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note).

SEC. 913. CONTRIBUTIONS BY JAPAN TO GLOBAL SECURITY

(a) FINDINGS.—Congress finds—

(1) that extraordinary political, economic, and social changes have occurred in Japan since World War II; and

(2) that, as a result of such changes, Japan is capable of assuming increased responsibility for its own security.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, in view of the changes referred to in subsection (a), Japan should—

(1) assume increased responsibility for its own security;

(2) offset the direct costs incurred by the United States in deploying military forces for the defense of Japan, including costs (other than pay and allowances) related to the presence of United States military personnel in Japan; and

(3) make a contribution to the common defense that is more commensurate with its economic status by taking the following actions:

(A) Increasing expenditures for its Official Development Assistance program and its defense programs so that, by

1992, the level of spending by Japan on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization (NATO) on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(B) Devoting any increase in its spending for such Official Development Assistance program primarily to the Republic of the Philippines and to countries in regions of importance to global stability outside of East Asia, particularly to countries in Latin America, the Caribbean area, and the Mediterranean area.

(C) Devoting any increase in spending for that program primarily to untied grants and increasing the portion of total expenditures made in that program for those multilateral financial institutions of which Japan is a member.

(D) Designating those nations that are to be recipients of increased development assistance referred to in subparagraphs (A) through (C) after consultation with Japan's security partners.

(E) Completing, after consultation with the United States, the 5-year defense program of Japan for fiscal years 1986 through 1990 and, at the earliest possible date after the completion of that program, fulfilling the pledge made by the Prime Minister of Japan in May 1981 to defend the territory, airspace, and sea lanes of Japan to a distance of 1,000 nautical miles.

(F) Acquiring "off-the-shelf" military equipment from the United States (including completely equipped, long-range early warning aircraft, additional AEGIS weapon systems, refueling aircraft, munitions, and spare parts) in developing the capabilities called for in Japan's current and subsequent 5-year defense programs.

President of U.S.

International agreements.

(c) NEGOTIATIONS AND CONSULTATIONS.—At the earliest practicable date after the enactment of this Act, the President shall—

(1) enter into negotiations with Japan for the purpose of achieving an agreement under which Japan agrees to make contributions sufficient in value to meet the direct cost of deploying United States forces for the defense of Japan; and

(2) issue an invitation to the Government of Japan and other governments of Pacific allies of the United States to engage in annual multilateral consultations on security concerns, consistent with the constitutions and national defense requirements of the respective countries.

(d) REPORTS.—(1) In order that Congress may determine whether further action is appropriate, not later than April 1, 1990, the President shall submit to the congressional committees described in paragraph (3) an initial report on the status and results of—

(A) the negotiations with Japan referred to in subsection (c)(1); and

(B) the invitation required under subsection (c)(2), including any consultations resulting from such invitation.

(2) Not later than one year after the date of the enactment of this Act, the President shall submit to such congressional committees a second report on the status and results of the matters referred to in paragraph (1).

(3) The congressional committees referred to in this subsection are the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives.

SEC. 914. REPORT ON COSTS ASSOCIATED WITH OVERSEAS DEPENDENTS

(a) REPORT REQUIRED.—The Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and House of Representatives on practicable options available to the Department of Defense to reduce costs associated with maintaining overseas—

(1) dependents of members of the Armed Forces; and

(2) dependents of civilian employees of the Department of Defense.

(b) ELEMENTS OF REPORT.—In preparing the report required by subsection (a), the Secretary shall specifically address, at a minimum, the following:

(1) Whether expansion of incentives for unaccompanied tours of duty overseas would be effective in increasing the number of such tours and whether such an expansion of incentives would be cost effective.

(2) Whether more frequent rotation of overseas personnel without dependents would result in overall savings as compared to current rotation practices.

(3) Whether an increase in the use of local contractors at overseas stations to provide services currently being provided by Department of Defense personnel would result in overall savings to the United States.

(4) The cost implications for United States families at overseas stations resulting from an increase in the use of local contractors.

(5) Whether costs associated with the support of overseas dependents would change from a reduction in personnel under a conventional forces in Europe (CFE) agreement.

(6) Whether the granting of fewer exceptions to the length of overseas duty tours would reduce permanent change of station costs.

(7) The extent to which overseas facilities could be consolidated and centralized to reduce administrative and overhead costs.

(8) The extent to which reductions in family support services at overseas stations could be made without materially affecting the standard of living of the personnel assigned to duty at such stations.

(9) Whether reductions in overseas family support costs would likely result in increased costs in programs in the United States.

(10) The extent to which dependents would be likely to accompany members of the Armed Forces and civilian employees of the Department of Defense to overseas stations in the absence of each of the various types of special assistance and benefits currently provided to overseas dependents.

(11) The effect that a reduction or termination of the various types of the special assistance and benefits for overseas dependents would have on combat readiness, morale, and retention.

(b) TIME FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than February 1, 1990.

SEC. 915. UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP AND OTHER SECURITY MATTERS IN EAST ASIA

(a) FINDINGS.—Congress makes the following findings:

(1) Since the end of the Korean conflict, the Republic of Korea has made tremendous progress in rebuilding its economic and military strength.

(2) Despite this progress, an indigenous military balance has not yet been achieved on the Korean peninsula, and the Democratic People's Republic of Korea continues to pose a serious threat to the security of the Republic of Korea.

(3) The alliance between the United States and the Republic of Korea has contributed greatly to the security of both countries.

(4) The Republic of Korea has dedicated a large share of its national resources to its security, as shown by the fact that defense expenditures comprise approximately one-third of the national budget of the Republic of Korea.

(5) The United States has contributed a large amount of national resources, including approximately 44,000 military personnel, to protecting the security interests that it shares with the Republic of Korea.

(6) The presence of United States military personnel in the Republic of Korea contributes to the preservation of peace on the Korean peninsula, serves as a military deterrent, and is a tangible manifestation of the commitment of the United States to the defense of the Republic of Korea.

(7) In accordance with its obligations under the 1954 Mutual Defense Treaty with the Republic of Korea, the United States remains committed to the security and territorial integrity of the Republic of Korea.

President of U.S. Reports.

(b) SENSE OF CONGRESS ON THE UNITED STATES-REPUBLIC OF KOREA SECURITY RELATIONSHIP.—(1) It is the sense of Congress that—

(A) the United States should review the missions, force structure, and locations of its military forces in the Republic of Korea and East Asia;

(B) the Republic of Korea should assume increased responsibility for its own security;

(C) the Republic of Korea should offset more of the direct costs incurred by the United States in deploying military forces for the defense of the Republic of Korea; and

(D) the United States and the Republic of Korea should consult on the feasibility and desirability of partial, gradual reductions of United States military forces in the Republic of Korea.

(2) In order that Congress may determine whether further action is appropriate, not later than April 1, 1990, the President shall submit to the congressional committees described in subsection (d) an initial report on the status and results of any consultations held by the United States and the Republic of Korea on the matter referred to in paragraph (1)(D).

(3) Not later than one year after the date of the enactment of this Act, the President shall submit to such congressional committees a second report on the status and results of the consultations referred to in paragraph (1)(D).

(c) REPORT ON MILITARY PRESENCE IN EAST ASIA.—(1) Not later than April 1, 1990, the President shall submit to the congressional committees described in subsection (d) a report on the military presence of the United States in East Asia, including the Republic of Korea. The President shall include in such report a strategic plan relating to the continued United States military presence in East Asia.

(2) The report required by this subsection shall specifically include the following:

People's Republic of China.

(A) An assessment of the implications of recent developments in the Soviet Union and the People's Republic of China for United States and allied security planning in East Asia.

(B) Identification of any changes in the missions, force structure, and locations of United States forces in East Asia that could strengthen the capabilities of such forces and lower the costs of maintaining such forces.

(C) A discussion of ways in which increased defense responsibilities and costs presently borne by the United States can be transferred to the allies of the United States in East Asia.

(D) Identification of the additional actions that the Republic of Korea can take to contribute more to its own security.

Japan.

(E) A discussion of the feasibility of restructuring United States military forces stationed in Okinawa with the objective of improving civil-military relations and increasing United States training opportunities.

Republic of the Philippines.

(F) A discussion of the status and prospects of negotiations between the United States and the Republic of the Philippines on the continued use of United States military installations in the Republic of the Philippines.

(G) An assessment of whether a requirement still exists for a regional security role for United States forces stationed in the Republic of Korea.

(3) The report required by this subsection shall also include a five-year plan with respect to the United States military presence in the Republic of Korea, including a discussion of the feasibility and desirability of the following:

(A) Partial, gradual reductions in the number of United States military personnel stationed in the Republic of Korea.

(B) Larger offsets by the Republic of Korea for the direct costs incurred by the United States in deploying military forces in defense of the Republic of Korea.

(C) The relocation of United States military personnel and facilities within the Republic of Korea that can be made to reduce friction between such personnel and the people of the Republic of Korea.

(D) Changes in the United Nations and United States-Republic of Korea bilateral command arrangements that would facilitate a transfer of certain military missions and command to the Republic of Korea.

(E) Confidence-building measures that could be promoted in northeast Asia to lessen tensions in the region.

(F) Additional actions the Republic of Korea could take to assume more responsibility for its own security.

(d) CONGRESSIONAL COMMITTEES TO RECEIVE REPORTS.—The congressional committees referred to in this section are the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives.

PART C—EXPENDITURES IN EUROPE

SEC. 921. LIMITATION ON EXPENDITURES FOR RELOCATION OF FUNCTIONS LOCATED AT TORREJON AIR BASE, MADRID, SPAIN

(a) LIMITATION.—During the period beginning on June 27, 1989, and ending on October 1, 1993, not more than $360,000,000 may be obligated or expended from funds available to the Department of Defense for the purpose of relocating functions of the Department of Defense located at Torrejon Air Base, Madrid, Spain, on June 15, 1989, to any other location outside the United States.

(b) COUNTING OF NATO INFRASTRUCTURE CONTRIBUTIONS.—For purposes of subsection (a), contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, that are used (directly or indirectly) for the purpose of relocations described in subsection (a) shall be included in determining the amount expended on such relocations.

(c) COUNTING OF REPAYMENTS FOR NATO INFRASTRUCTURE FAMILY HOUSING COMMITMENTS.—(1) All amounts which the United States is obligated to pay under a housing reimbursement agreement described in paragraph (2) shall be deemed to be amounts obligated for purposes of subsection (a), regardless of when the agreement is entered into or when payments pursuant to the agreement are to be made.

(2) A housing reimbursement agreement for purposes of paragraph (1) is an agreement calling for the United States to make a series of annual payments as repayment for advances for the cost of construction, through the NATO Infrastructure program, of military family housing in connection with the relocations described in subsection (a).

(d) EXCLUSION FOR PERSONNEL EXPENSES.—There shall be excluded from the determination of amounts expended on relocations described in subsection (a) amounts spent for expenses associated with permanent change of station moves and other personnel-related expenses.

SEC. 922. SENSE OF CONGRESS CONCERNING UNITED STATES MILITARY FACILITIES IN NATO MEMBER COUNTRIES

(a) NATO POLICY.—It is the sense of Congress that the North Atlantic Treaty Organization (NATO) should adopt as its policy the following views expressed by the North Atlantic Assembly in its 1987 report entitled "NATO in the 1990s":

(1) The member nations of NATO should examine further measures that could be taken to relieve the United States from the burdens of its military presence in Europe.

(2) Such nations should consider the provision of base facilities for allied forces and equipment as a part of their national contributions to Western security.

(3) Such nations should not expect compensation for providing facilities that the NATO alliance decides are essential to implement NATO security strategy.

(4) All wealthier member nations of NATO should assist Portugal, Greece, and Turkey to ensure that NATO remains politically, economically, and militarily strong in its southern region as well as in its central and northern regions.

(b) UNITED STATES PAYMENT FOR USE OF BASE FACILITIES IN NATO COUNTRIES.—It is further the sense of Congress that the United

States should not provide economic or security assistance to any NATO member nation as compensation or rent for the use of base facilities in that nation.

PART D—COOPERATIVE AGREEMENTS

SEC. 931. CODIFICATION OF CERTAIN ALLIED COOPERATIVE AGREEMENTS STATUTES

(a) STATUTORY REORGANIZATION.—Chapter 138 of title 10, United States Code, is amended—

(1) by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 138—COOPERATIVE AGREEMENTS WITH NATO ALLIES AND OTHER COUNTRIES

"Subchapter
"I. Acquisition and Cross-Servicing Agreements 2341
"II. Other Cooperative Agreements 2350a

"SUBCHAPTER I—ACQUISITION AND CROSS-SERVICING AGREEMENTS";

and

(2) by adding at the end the following:

"SUBCHAPTER II—OTHER COOPERATIVE AGREEMENTS

"Sec.
"2350a. Cooperative research and development projects: allied countries.
"2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment.
"2350c. Cooperative military airlift agreements: allied countries.
"2350d. Cooperative logistic support agreements: NATO countries.
"2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense.
"2350f. Procurement of communications support and related supplies and services.

"§ 2350a. Cooperative research and development projects: allied countries

"(a) AUTHORITY TO ENGAGE IN COOPERATIVE R&D PROJECTS.—The Secretary of Defense may enter into a memorandum of understanding (or other formal agreement) with one or more major allies of the United States for the purpose of conducting cooperative research and development projects on defense equipment and munitions.

"(b) REQUIREMENT THAT PROJECTS IMPROVE CONVENTIONAL DEFENSE CAPABILITIES.—(1) The Secretary of Defense may not enter into a memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section unless the Secretary determines that the proposed project will improve, through the application of emerging technology, the conventional defense capabilities of the North Atlantic Treaty Organization (NATO) or the common conventional defense capabilities of the United States and its major non-NATO allies.

"(2) The authority of the Secretary to make a determination under paragraph (1) may only be delegated to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

"(c) Cost Sharing.—Each cooperative research and development project entered into under this section shall require sharing of the costs of the project between the participants on an equitable basis.

"(d) Restrictions on Procurement of Equipment and Services.—(1) In order to assure substantial participation on the part of the major allies of the United States in cooperative research and development projects, funds made available for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

"(2) A major ally of the United States may not use any military or economic assistance grant, loan, or other funds provided by the United States for the purpose of making that ally's contribution to a cooperative research and development program entered into with the United States under this section.

"(e) Cooperative Opportunities Document.—(1)(A) In order to ensure that opportunities to conduct cooperative research and development projects are considered at an early point during the formal development review process of the Department of Defense in connection with any planned project of the Department, the Under Secretary of Defense for Acquisition shall prepare an arms cooperation opportunities document with respect to that project for review by the Defense Acquisition Board at formal meetings of the Board.

"(B) The Under Secretary shall also prepare an arms cooperation opportunities document for review of each new project for which a document known as a Mission Need Statement is prepared.

"(2) An arms cooperation opportunities document referred to in paragraph (1) shall include the following:

"(A) A statement indicating whether or not a project similar to the one under consideration by the Department of Defense is in development or production by one or more of the major allies of the United States.

"(B) If a project similar to the one under consideration by the Department of Defense is in development or production by one or more major allies of the United States, an assessment by the Under Secretary of Defense for Acquisition as to whether that project could satisfy, or could be modified in scope so as to satisfy, the military requirements of the project of the United States under consideration by the Department of Defense.

"(C) An assessment of the advantages and disadvantages with regard to program timing, developmental and life cycle costs, technology sharing, and Rationalization, Standardization, and Interoperability (RSI) of seeking to structure a cooperative development program with one or more major allies of the United States.

"(D) The recommendation of the Under Secretary as to whether the Department of Defense should explore the feasibility and desirability of a cooperative development program with one or more major allies of the United States.

"(f) Reports to Congress.—(1) Not later than March 1 of each year, the Under Secretary of Defense for Acquisition shall submit to the Speaker of the House of Representatives and the Committees on Armed Services and Appropriations of the Senate a report on cooperative research and development projects under this section Each such report shall include—

"(A) a description of the status, funding, and schedule of existing projects carried out under this section for which memoranda of understanding (or other formal agreements) have been entered into; and

"(B) a description of the purpose, funding, and schedule of any new projects proposed to be carried out under this section (including those projects for which memoranda of understanding (or other formal agreements) have not yet been entered into) for which funds have been included in the budget submitted to Congress pursuant to section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(2) The Secretary of Defense and the Secretary of State, whenever they consider such action to be warranted, shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report—

"(A) enumerating those countries to be added to or deleted from the existing designation of countries designated as major non-NATO allies for purposes of this section; and

"(B) specifying the criteria used in determining the eligibility of a country to be designated as a major non-NATO ally for purposes of this section.

"(g) SIDE-BY-SIDE TESTING.—(1) It is the sense of Congress—

"(A) that the Secretary of Defense should test conventional defense equipment, munitions, and technologies manufactured and developed by major allies of the United States to determine the ability of such equipment, munitions, and technologies to satisfy United States military requirements or to correct operational deficiencies; and

"(B) that while the testing of nondevelopmental items and items in the late state of the development process are preferred, the testing of equipment, munitions, and technologies may be conducted to determine procurement alternatives.

"(2) The Secretary of Defense may acquire equipment, munitions, and technologies of the type described in paragraph (1) for the purpose of conducting the testing described in that paragraph.

"(3) The Deputy Director, Defense Research and Engineering (Test and Evaluation) shall notify the Speaker of the House of Representatives and the Committees on Armed Services and on Appropriations of the Senate of the Deputy Director's intent to obligate funds made available to carry out this subsection not less than 30 days before such funds are obligated.

"(4) The Secretary of Defense shall include in the annual report to Congress required by section 2457(d) of this title information on—

"(A) the equipment, munitions, and technologies manufactured and developed by major allies of the United States that were evaluated under this subsection during the previous fiscal year;

"(B) the obligation of any funds under this subsection during the previous fiscal year; and

"(C) the equipment, munitions, and technologies that were tested under this subsection and procured during the previous fiscal year.

"(h) SECRETARY TO ENCOURAGE SIMILAR PROGRAMS.—The Secretary of Defense shall encourage major allies of the United States to establish programs similar to the one provided for in this section.

"(i) DEFINITIONS.—In this section:

"(1) The term 'cooperative research and development project' means a project involving joint participation by the United

States and one or more major allies of the United States under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

"(A) to develop new conventional defense equipment and munitions; or

"(B) to modify existing military equipment to meet United States military requirements.

"(2) The term 'major ally of the United States' means—

"(A) a member nation of the North Atlantic Treaty Organization (other than the United States); or

"(B) a major non-NATO ally.

"(3) The term 'major non-NATO ally' means a country (other than a member nation of the North Atlantic Treaty Organization) that is designated as a major non-NATO ally for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

(b) TRANSFER OF EXISTING TITLE 10 SECTIONS.—(1) Section 2407 of title 10, United States Code (relating to acquisition of defense equipment under cooperative agreements), is transferred to the end of chapter 138 of such title (as amended by subsection (a)) and redesignated as section 2350b.

(2) Section 2213 of such title (relating to cooperative military airlift agreements), is transferred to the end of chapter 138 of such title (as amended by paragraph (1)), redesignated as section 2350c, and amended in subsection (d) by striking out "chapter 138 of this title" and inserting in lieu thereof "subchapter I".

(c) CODIFICATION OF EXISTING NON-TITLE 10 SECTION.—Chapter 138 of such title (as amended by subsection (b)) is further amended by adding at the end the following new section:

"§ 2350d. Cooperative logistic support agreements: NATO countries

"(a) GENERAL AUTHORITY.—(1) The Secretary of Defense may enter into bilateral or multilateral agreements known as Weapon System Partnership Agreements with one or more governments of other member countries of the North Atlantic Treaty Organization (NATO) participating in the operation of the NATO Maintenance and Supply Organization. Any such agreement shall be for the purpose of providing cooperative logistics support for the armed forces of the countries which are parties to the agreement. Any such agreement—

"(A) shall be entered into pursuant to the terms of the charter of the NATO Maintenance and Supply Organization; and

"(B) shall provide for the common logistic support of a specific weapon system common to the participating countries.

"(2) Such an agreement may provide for—

"(A) the transfer of logistics support, supplies, and services by the United States to the NATO Maintenance and Supply Organization; and

"(B) the acquisition of logistics support, supplies, and services by the United States from that Organization.

"(b) AUTHORITY OF SECRETARY.—Under the terms of a Weapon System Partnership Agreement, the Secretary of Defense—

"(1) may agree that the NATO Maintenance and Supply Organization may enter into contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply and acquisition are appropriate; and

"(2) may share the costs of set-up charges of facilities for use by the NATO Maintenance and Supply Organization to provide cooperative logistics support and in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Maintenance and Supply Organization to provide cooperative logistics support.

"(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Weapon System Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs incident to the agreement.

"(d) APPLICATION OF CHAPTER 137.—Except as otherwise provided in this section, the provisions of chapter 137 of this title apply to a contract entered into by the Secretary of Defense for the acquisition of logistics support under a Weapon System Partnership Agreement.

"(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—Any transfer of defense articles or defense services to a member country of the North Atlantic Treaty Organization or to the NATO Maintenance and Supply Organization for the purposes of a Weapon System Partnership Agreement shall be carried out in accordance with the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under subchapter I and any other provision of law.".

(d) CONFORMING REPEALS.—The following provisions of law are repealed:

(1) Section 1103 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 713).

10 USC 2407 note.

(2) Section 1102 and section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661, 800 Stat. 3961, 3965).

10 USC 2407 note; 22 USC 2767a.

(e) CONFORMING AND CLERICAL AMENDMENTS.—(1) Sections 2342 through 2350 of title 10, United States Code, are amended by striking out "this chapter" each place it appears and inserting in lieu thereof "this subchapter".

(2) The items relating to chapter 138 in the table of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are amended to read as follows:

"138. Cooperative Agreements with NATO Allies and Other Countries............. 2341".

(3) The heading of section 2350b of such title (as redesignated by subsection (b)(1)) is amended to read as follows:

"§ 2350b. Cooperative projects under Arms Export Control Act: acquisition of defense equipment".

(4) The heading of section 2350c of such title (as redesignated by subsection (b)(2)) is amended to read as follows:

"§ 2350c. Cooperative military airlift agreements: allied countries".

SEC. 932. EXTENSION AND CODIFICATION OF AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

(a) EXTENSION AND CODIFICATION.—(1) Chapter 138 of title 10, United States Code (as amended by section 931), is further amended by adding at the end the following new section:

"§ 2350e. NATO Airborne Warning and Control System (AWACS) program: authority of Secretary of Defense

"(a) AUTHORITY UNDER AWACS PROGRAM.—The Secretary of Defense, in carrying out an AWACS memorandum of understanding, may do the following:

"(1) Waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

"(A) Auditing.
"(B) Quality assurance.
"(C) Codification.
"(D) Inspection.
"(E) Contract administration.
"(F) Acceptance testing.
"(G) Certification services.
"(H) Planning, programming, and management services.

"(2) Waive any surcharge for administrative services otherwise chargeable.

"(3) In connection with that Program, assume contingent liability for—

"(A) program losses resulting from the gross negligence of any contracting officer of the United States;

"(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and

"(C) the United States share of the unfunded termination liability.

"(b) CONTRACT AUTHORITY LIMITATION.—Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"(c) DEFINITION.—In this section, the term 'AWACS memorandum of understanding' means—

"(1) the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978;

"(2) the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO on September 26, 1984; and

"(3) any other follow-on support agreement for the NATO E-3A Cooperative Programme.

"(d) EXPIRATION.—The authority provided by this section expires on September 30, 1991.".

(b) Conforming Repeal.—Section 103 of the Department of Defense Authorization Act, 1982 (Public Law 97-86), is repealed.

10 USC 2407 note.

SEC. 933. REVISION AND EXTENSION OF AUTHORITY FOR PROCUREMENT OF COMMUNICATIONS SUPPORT AND RELATED SUPPLIES AND SERVICES FROM OTHER NATIONS

(a) Recodification of Section.—Section 2401a of title 10, United States Code, is transferred to the end of subchapter II of chapter 138 of such title, as added by section 931 and amended by section 932, and is redesignated as section 2350f.

(b) Authority To Enter Into Bilateral and Multilateral Arrangements.—Subsection (a) of such section is amended—

(1) by striking out "an arrangement with the Minister of Defense or other appropriate official of any allied country or with the North Atlantic Treaty Organization (NATO)" and inserting in lieu thereof "a bilateral arrangement with any allied country or allied international organization or may enter into a multilateral arrangement with allied countries and allied international organizations";

(2) by striking out "such country or NATO" and inserting in lieu thereof "the allied country or countries or allied international organization or allied international organizations, as the case may be,"; and

(3) by adding at the end the following new sentence: "The term of an arrangement entered into under this subsection may not exceed five years.".

(c) Liquidation of Credits and Liabilities.—Subsection (b) of such section is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second sentence as paragraph (3);

(3) by inserting after the first sentence the following new sentence: "Liquidations may be made at such times as the parties in an arrangement may agree upon, but in no case may final liquidation in the case of an arrangement be made later than 30 days after the end of the term for which the arrangement was entered into."; and

(4) by inserting after paragraph (1), as designated by clause (1) of this subsection, the following new paragraph:

"(2) Parties to an arrangement entered into under this section shall annually reconcile accrued credits and liabilities accruing under such agreement. Any liability of the United States resulting from a reconciliation shall be charged against the applicable appropriation available to the Department of Defense (at the time of the reconciliation) for obligation for communications support and related supplies and services.".

(d) Definitions.—Subsection (d) of such section is amended—

(1) by striking out "In this section, the term 'allied country' means—" and inserting in lieu thereof "In this section:

"(1) The term 'allied country' means—";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by striking out "; or" at the end of clause (A), as redesignated by clause (2) of this subsection, and inserting in lieu thereof a semicolon;

(4) by striking out the period at the end of clause (B), as redesignated by clause (2) of this subsection, and inserting in lieu thereof "; or"; and

(5) by adding at the end the following:

"(C) any other country designated as an allied country for purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

"(2) The term 'allied international organization' means the North Atlantic Treaty Organization (NATO) or any other international organization designated as an allied international organization for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2401a.

SEC. 934. TWO-YEAR EXTENSION OF AUTHORITY TO PROVIDE EXCESS DEFENSE ARTICLES FOR THE MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES ON NATO SOUTHERN AND SOUTHEASTERN FLANKS

Section 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(a)) is amended—

(1) by striking out "during the fiscal years 1987, 1988, and 1989" in the first sentence and inserting in lieu thereof "during the fiscal years 1987 through 1991"; and

(2) by adding at the end the following new sentence: "Transfers to recipient countries under this subsection shall be consistent with the policy framework for the Eastern Mediterranean region established in section 620C of this Act.".

22 USC 2347c note.

SEC. 935. AUTHORITY FOR EXCHANGE TRAINING THROUGH SPECIFIED PROFESSIONAL MILITARY EDUCATION INSTITUTION OUTSIDE THE UNITED STATES

Federal Republic of Germany.

(a) AUTHORITY.—The United States Army Russian Institute in Garmisch-Partenkirchen, Federal Republic of Germany, shall be treated for purposes of section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) as if it were located in the United States.

(b) EXPIRATION OF AUTHORITY.—Subsection (a) shall cease to be in effect upon the enactment in foreign assistance authorizing legislation of an amendment to section 544 of the Foreign Assistance Act of 1961 that provides the same authority as is provided by subsection (a).

SEC. 936. EXTENSION OF AUTHORITY TO PAY CERTAIN EXPENSES IN CONNECTION WITH BILATERAL AND REGIONAL COOPERATION PROGRAMS

(a) EXTENSION OF AUTHORITY TO MEETINGS, ETC., IN CANADA AND MEXICO.—Subsection (b)(1) of section 1051 of title 10, United States Code, is amended by inserting "or in connection with travel to Canada or Mexico" before the period at the end.

(b) THREE-YEAR EXTENSION OF AUTHORITY.—Subsection (g) of such section is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 937. EXTENSION OF H-1 IMMIGRATION STATUS FOR CERTAIN NONIMMIGRANTS EMPLOYED IN COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS AND COPRODUCTION PROJECTS

8 USC 1101 note.

The Attorney General shall provide for the extension through December 31, 1991, of nonimmigrant status under section

101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) for an alien to perform temporarily services relating to a cooperative research and development project or a coproduction project provided under a government-to-government agreement administered by the Secretary of Defense in the case of an alien who has had such status for a period of at least five years if such status has not expired as of the date of the enactment of this Act but would otherwise expire during 1989, 1990, or 1991, due only to the time limitations with respect to such status.

SEC. 938. METHODS OF PAYMENT FOR ACQUISITIONS AND TRANSFERS BY THE UNITED STATES TO ALLIED COUNTRIES

(a) Exchanges To Be for Supplies or Services of Identical Value.—Section 2344 of title 10, United States Code, is amended by striking out "identical or substantially identical nature" before the period at the end of subsection (a) and inserting in lieu thereof "equal value".

(b) Limitations on Exchanges.—Such section is further amended by adding at the end the following new subsection:

"(c) In acquiring or transferring logistics support, supplies, or services under the authority of this chapter by exchange of supplies or services, the Secretary of Defense may not agree to or carry out the following:

"(1) Transfers in exchange for property the acquisition of which by the Department of Defense is prohibited by law.

"(2) Transfers of source, byproduct, or special nuclear materials or any other material, article, data, or thing of value the transfer of which is subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"(3) Transfers of chemical munitions.".

(c) Application of Chapter 138.—Section 2350d(e) of title 10, United States Code, as enacted by section 931(c), is amended by inserting "this chapter and" after "in accordance with".

TITLE X—MATTERS RELATING TO ARMS CONTROL

SEC. 1001. PRESIDENTIAL REPORT ON POSSIBLE EFFECTS OF A STRATEGIC ARMS REDUCTION AGREEMENT ON TRIDENT PROGRAM

(a) Report.—Not later than April 1, 1990, the President shall submit to Congress a comprehensive report on the Trident program under a possible Strategic Arms Reduction Talks (START) agreement. The report shall address the following issues:

(1) The objective for the size of the Trident submarine force fleet both with and without a START agreement.

(2) The implications for United States strategic force posture under a START agreement of a fleet of 21 or more Trident submarines, each with 192 warheads on 24 ballistic missiles, under two different assumptions, as follows:

(A) All such warheads are accountable under START limits.

(B) The warheads on one-to-three Trident submarines are not accountable under START limits.

(3) A net assessment of the implications for United States security of a START agreement that allows the Soviet Union as well as the United States to have an equivalent number of warheads on submarines that are not accountable under START limits.

(4) The technical feasibility and cost implications of various options for reducing the number of warheads on Trident submarines, including those submarines already built, those under construction, and those yet to be built.

(5) The verification challenges to the United States posed by such options if the Soviet Union were to adopt them in its ballistic missile submarine forces.

(b) FORM OF REPORT.—The President shall submit the report under subsection (a) in both classified and unclassified versions.

(c) WAIVER.—The President may waive the requirements of subsection (a) if he has signed a START agreement or other strategic arms reduction agreement with the Soviet Union before the date by which the report is otherwise required to be submitted.

SEC. 1002. PRESIDENTIAL REPORT ON THE VERIFICATION WORK THAT HAS BEEN CONDUCTED WITH REGARD TO MOBILE ICBMs UNDER A START AGREEMENT

(a) FINDINGS.—Congress makes the following findings:

(1) The United States must have confidence that any agreement achieved through the Strategic Arms Limitation Talks (START) in Geneva will be effectively verifiable.

(2) The position of the United States at the START negotiations, from 1985 until September 1989, was to ban the deployment of mobile intercontinental ballistic missiles (ICBMs) under a START regime unless an effective verification regime could be identified and implemented. In September 1989, the United States announced that it was withdrawing its proposal for the ban of mobile ICBMs, contingent upon Congress providing funds for mobile ICBMs to be deployed by the United States.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS-24 and the SS-25.

(4) The President conducted a strategic review during the period between January 20, 1989, and the resumption of the START negotiations on June 15, 1989.

(b) PRESIDENTIAL REPORT.—Not later than March 31, 1990, the President shall submit to Congress a report (in classified and unclassified form) describing all studies that have been performed between March 1985 and August 1989 by agencies of the United States Government with regard to the capability of the United States to monitor and verify a START agreement which allows mobile ICBMs. The report shall include the following:

(1) A description of each study conducted by United States Government agencies during the strategic review referred to in subsection (a)(4) to determine the ability of the United States to verify limitations on mobile ICBMs of the Soviet Union under a START agreement, including a summary of the conclusions reached under each such study.

(2) A description of any so-called "Red Team" study conducted between March 1985 and August 1989 with regard to the existence of mobile ICBMs under a START regime, including a summary of the conclusions reached under each such study

(3) A description of each study conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various options relating to the verification of mobile ICBMs (such options to include the option known as "tagging" and the establishment of designated deployment

areas), including a summary of the conclusions reached under each such study.

SEC. 1003. SENSE OF CONGRESS ON START TALKS

Congress hereby reaffirms the sense of Congress expressed in the second session of the 100th Congress (in section 902 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2031)) that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the Strategic Arms Reduction Talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force; and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 1004. REPORT ON ASYMMETRIES IN CAPABILITIES OF UNITED STATES AND SOVIET UNION TO PRODUCE AND DEPLOY BALLISTIC MISSILE DEFENSE SYSTEMS

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the asymmetry in the near-term capabilities of the United States and the Soviet Union to deploy ballistic missile defenses beyond those permitted under the 1972 ABM Treaty. The study shall be conducted in coordination with the Director of Central Intelligence.

(b) MATTERS TO BE INCLUDED IN STUDY.—Subject to subsection (e), the study shall include the following:

(1) An assessment of the likelihood of a breakout by the Soviet Union from the 1972 ABM Treaty in the next five years and the assumptions used for that assessment.

(2) An assessment of the capability of the Soviet Union to exploit a situation in which the limitations of the 1972 ABM Treaty do not apply, including a detailed assessment of the capabilities of the Soviet Union to produce—

(A) space-based anti-ballistic missile (ABM) launchers and interceptors;

(B) ground-based ABM launchers and interceptors; and

(C) the infrastructure for ABM battle management command, control, and communications.

(3) An assessment of the production base of the United States for production of the elements specified in subparagraphs (A), (B), and (C) of paragraph (2), including an estimate of how quickly the United States could respond to a breakout by the Soviet Union in each of those elements.

(c) STUDY TO ASSESS POSSIBLE UNITED STATES RESPONSE TO SOVIET BREAKOUT.—(1) The study shall also include an assessment of the immediate and long-term actions that could be taken by the United States to respond to redress any asymmetry in the potential of the United States and the Soviet Union to exploit a breakout by the Soviet Union from the 1972 ABM Treaty.

(2) That assessment shall include an evaluation of the actions that would be necessary to support—

(A) a one-site ABM system (as allowed under the Treaty); or

(B) an expanded ABM system unconstrained by the limitations of the 1972 ABM Treaty.

North Dakota.

(3) Such assessment shall specifically address the required actions, and the costs associated with those actions, to support both the one-site ABM system and the expanded ABM system to be evaluated under paragraph (2), including (A) the upgrading and expansion of the existing United States radar network, (B) the use of existing inactive ABM components at Grand Forks, North Dakota, and (C) the development and deployment of other required components.

(d) Report.—Not later than the date on which the budget for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the study under subsection (a). The report shall be submitted in both classified and unclassified form. The report shall specify the results of the study under subsection (a), including each matter required to be included in the study under this section.

(e) Waiver of Required Study Feature.—The study under subsection (a) need not include the assessment referred to in subsection (b)(1) if, before the date of the submission of the report required by subsection (d) with respect to the study, the President submits to Congress the report required by section 907 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2034), regarding antiballistic missile capabilities and activities of the Soviet Union (such report having been required by subsection (c) of such section to be submitted not later than January 1, 1989).

(f) 1972 ABM Treaty Defined.—For purposes of this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 1005. SENSE OF THE CONGRESS WITH RESPECT TO ACCIDENTAL LAUNCH PROTECTION

(a) Findings.—Congress makes the following findings:

(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing technologies to defend the United States from a possible ballistic missile attack, be it deliberate or accidental.

(2) Ground-based elements and their associated adjuncts and technologies represent the most mature technologies within the SDI program and should therefore receive priority by the Strategic Defense Initiative Organization.

(3) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(4) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(5) The continued proliferation of offensive ballistic missile forces by non-superpower countries hostile to the United States and our allies raises the possibility of future nuclear threats.

(b) Reaffirmation of Sense of Congress.—Congress hereby reaffirms the sense of Congress expressed in section 224(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1942) stating—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting

the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

(c) Submission of Previously Required Report.—The Secretary of Defense shall submit to Congress forthwith the report on the status of planning for development of a deployment option for such an accidental launch protection system that was required by section 224(c) of that Act to be submitted not later than March 1, 1989.

SEC. 1006. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING THE KRASNOYARSK RADAR

(a) Reaffirmation of Prior Findings.—Congress hereby reaffirms the findings made with respect to the large phased-array radar of the Soviet Union known as the "Krasnoyarsk radar" in paragraphs (1) through (6) of section 902(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1135), as follows:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long leadtime element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(b) Further Findings.—In addition to the findings referred to in subsection (a), Congress finds with respect to the Krasnoyarsk radar that—

(1) in 1987 the President declared that radar to be a clear violation of the 1972 Anti-Ballistic Missile Treaty;

(2) until the meeting between the Secretary of State and the Foreign Minister of the Soviet Union at Jackson Hole, Wyoming, in September 1989, the Soviet Union had rejected demands by the United States that it dismantle that radar without conditions, but the joint statment issued following that meeting states that the government of the Soviet Union "had decided to completely dismantle the Krasnoyarsk radar station"; and

(3) on October 23, 1989, the Foreign Minister of the Soviet Union conceded that the Krasnoyarsk radar is a violation of the 1972 Anti-Ballistic Missile Treaty.

(c) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the Soviet Union should dismantle the Krasnoyarsk radar (as announced in the joint statement referred to in subsection (b)(2)) expeditiously and without conditions; and

(2) that until such radar is completely dismantled it will remain a clear violation of the 1972 Anti-Ballistic Missile Treaty.

SEC. 1007. SENSE OF CONGRESS CONCERNING EXPLORING THE FEASIBILITY OF TREATY LIMITATIONS ON WEAPONS CAPABLE OF THREATENING MILITARY SATELLITES

It is the sense of Congress that, as soon as practicable, the President should explore the feasibility of a mutual and verifiable treaty with the Soviet Union which places the strictest possible limitations, consistent with the security interests of the United States and its allies, on the development, testing, production, and deployment of weapons capable of directly threatening United States military satellites.

President of U.S.
Union of Soviet
Socialist
Republics.

SEC. 1008. REPORT ON SATELLITE SURVIVABILITY

(a) REQUIREMENT FOR REPORT.—The President shall submit to Congress a comprehensive report on United States antisatellite weapon activities and the survivability of United States satellites against current and potential antisatellite weapons deployed by the Soviet Union. The report shall be submitted by March 15, 1990, and shall be submitted in both classified and unclassified versions.

(b) MATTERS TO BE INCLUDED IN REPORT.—The report required by subsection (a) shall include the following:

(1) Detailed information (including funding profiles, expected capabilities, and schedules for development, testing, and deployment) on all United States antisatellite weapon programs.

(2) An analysis of the antisatellite potential of the anticipated deployed version of each Strategic Defense Initiative technology capable of damaging or destroying objects in space.

(3) An assessment of the threat that would be posed to satellites of the United States if the technologies described in paragraphs (1) and (2) were to be tested by the Soviet Union, at levels of performance equal to those intended by the United States, and developed into weapons for damaging or destroying objects in space.

(4) A review of arms control options and satellite survivability measures (including cost data) that would improve the survivability of current and future United States military satellite systems.

(5) A review of alternative means of providing the support to military forces of the United States that is currently provided by United States satellites if those satellites become vulnerable to attack as the result of the deployment by the Soviet Union of antisatellite weapons with the levels of performance contemplated in paragraph (3).

SEC. 1009. REPORT ON THE DESIRABILITY OF NEGOTIATIONS WITH THE SOVIET UNION REGARDING LIMITATIONS ON ANTISATELLITE CAPABILITIES

President of U.S.

(a) REPORT BY THE PRESIDENT.—The President shall submit to Congress a comprehensive report regarding the desirability of an agreement with the Soviet Union to impose limitations on antisatellite capabilities. The President shall include in such report his determination of whether a ban or other limitations on some or all antisatellite weapons would be verifiable and, if so, whether such a ban or other limitation would be in the national interest of the United States.

(b) MATTERS RELATING TO VERIFICATION.—In making the determination referred to in subsection (a), the President shall—

(1) consider the extent to which on-site inspection measures (as well as national technical means for verification) can increase confidence in the ability of the United States to monitor and verify various agreed-upon antisatellite limitations; and

(2) examine various arms control possibilities, including—

(A) a total ban on antisatellite capability by both the United States and the Soviet Union;

(B) a ban or other limitation on antisatellite weapons with the potential to attack satellites at altitudes above the Van Allen belt; and

(C) a ban or other limitation on antisatellite weapons that operate only in low-Earth orbit.

(c) MATTERS RELATING TO DETERRENCE AND WAR FIGHTING REQUIREMENTS.—In the report required by subsection (a), the President shall also address the following:

(1) The contribution an antisatellite capability of the United States can make toward enhancing deterrence.

(2) The contribution an antisatellite capability can make toward meeting the war fighting requirements of the United States and how such a capability enhances force survivability.

(3) The extent to which (based upon a net assessment) the United States would be better able to meet its war fighting requirements and deterrence objectives if—

(A) the Soviet Union possessed an antisatellite capability and the United States did not possess an antisatellite capability;

(B) neither the United States nor the Soviet Union possessed an antisatellite capability;

(C) the United States and the Soviet Union both possessed a limited antisatellite capability;

(D) the United States and the Soviet Union both possessed an unrestricted antisatellite capability.

(d) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to Congress not later than May 1, 1990, and shall be submitted in both classified and unclassified versions.

SEC. 1010. REPORT ON VERIFICATION OF COMPLIANCE WITH AGREEMENTS TO LIMIT NUCLEAR TESTING

(a) REPORT REQUIREMENT.—The Secretary of Energy shall prepare a report, in classified form, assessing the possible effects on the abilities of the United States to verify compliance by the Soviet Union with any agreement (presently in effect or under negotiation) to limit testing of nuclear devices should any information or data now obtained under any cooperative agreement with any controlled country and used to verify the degree of such compliance be curtailed or become unavailable due to a change in, or severing of, diplomatic relations with such a controlled country. The report shall assess, in particular, whether compliance by the Soviet Union with any such agreement to limit testing of nuclear devices can be fully and reliably verified should such a cooperative agreement be curtailed or terminated. The report shall be prepared in consultation with the Secretary of Defense.

(b) SUBMISSION OF REPORT.—The report prepared under subsection (a) shall be submitted to Congress not later than six months after the date of the enactment of this Act.

(c) CONTROLLED COUNTRY DEFINITION.—For purposes of this section, the term "controlled country" means a country listed in section 620(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)(1)).

SEC. 1011. SENSE OF CONGRESS ON ARMS CONTROL NEGOTIATIONS AND UNITED STATES MODERNIZATION POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is currently engaged in a wide range of arms control negotiations in the areas of strategic nuclear forces, strategic defenses, conventional force levels, chemical weapons, and security and confidence building measures.

(2) On May 30, 1989, the North Atlantic Treaty Organization issued a "Comprehensive Concept on Arms Control and Disarmament" which placed a special emphasis on arms control as a means of enhancing security and stability in Europe.

(3) The President has stated that arms control is one of the highest priorities of the United States in the area of security and foreign policy and that the United States will pursue a dynamic, active arms control dialogue with the Soviet Union and the other Warsaw Pact countries.

(4) The United States has already made major proposals at the Conventional Forces in Europe Talks, convened on March 6, 1989, which would result in a dramatic reduction in Soviet and Warsaw Pact conventional forces.

(5) The President, on September 25, 1989, made a major new arms control proposal in the area of chemical weapons.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President is to be commended for pursuing a wide array of arms control initiatives in the context of a multitude of arms control negotiations, all of which have been designed to enhance global security and result in meaningful, militarily significant reductions in military forces;

(2) Congress fully supports the arms control efforts of the President and encourages the government of the Soviet Union to respond favorably to United States arms control proposals which would require the Soviet Union to reduce its massive quantitative superiority in military weaponry;

(3) the President should seek arms control agreements that would not limit the United States to levels of forces inferior to the limits provided for the Soviet Union; and

(4) the President's efforts to negotiate such agreements is dependent upon the maintenance of a vigorous research and development and modernization program as required for a prudent defense posture.

(c) REAFFIRMATION OF PROHIBITION RELATING TO ENTERING INTO CERTAIN ARMS CONTROL AGREEMENTS.—Congress hereby reaffirms the proviso in the first sentence of section 33 of the Arms Control and Disarmament Act (22 U.S.C. 2573) that no action may be taken under that Act or any other Act that will obligate the United States to disarm or to reduce or limit the Armed Forces or armaments of the United States, except pursuant to the treatymaking power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress.

SEC. 1012. REPORT ON EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS

President of U.S.

Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in Earth orbit of space nuclear reactors.

SEC. 1013. SENSE OF CONGRESS ON CHEMICAL WEAPONS NEGOTIATIONS

(a) FINDINGS.—Congress makes the following findings:

(1) The proliferation of chemical weapons and the repeated use of chemical weapons represent a grave threat to the security and interests of the United States.

(2) The most comprehensive and effective response to the threat posed by the proliferation of chemical weapons is the completion of an effectively verifiable treaty banning the production and stockpiling of all chemical weapons.

(3) The successful completion of a treaty banning all chemical weapons through the negotiations at the multinational United Nations Conference on Disarmament in Geneva should be one of the highest arms control priorities of the United States.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the President should continue ongoing efforts to establish an agreement with the Soviet Union and other countries establishing a mutual and effectively verifiable agreement to stop the production, proliferation, and stockpiling of all lethal chemical weapons; and

(2) the United States negotiators in Geneva should take concrete steps to initiate proposals regarding the composition of the verification regime for such an agreeement that will meet the legitimate concerns of other parties while addressing the security concerns of the United States.

SEC. 1014. UNITED STATES PROGRAM FOR ON-SITE INSPECTIONS UNDER ARMS CONTROL AGREEMENTS

22 USC 2595 note.

(a) FINDINGS CONCERNING ON-SITE INSPECTION PERSONNEL.—Congress makes the following findings:

(1) The United States is currently engaged in multilateral and bilateral negotiations seeking to achieve treaties or agreements to reduce or eliminate various types of military weapons and to make certain reductions in military personnel levels. These negotiations include negotiations for (A) reductions in strategic forces, conventional armaments, and military personnel levels, (B) regimes for monitoring nuclear testing, and (C) the complete elimination of chemical weapons.

(2) Requirements for monitoring these possible treaties or agreements will be extensive and will place severe stress on the monitoring capabilities of United States national technical means.

(3) In the case of the INF Treaty, the United States and the Soviet Union negotiated, and are currently using, on-site inspection procedures to complement and support monitoring by national technical means. Similar on-site inspection procedures are being negotiated for inclusion in possible future treaties and agreements referred to in paragraph (1).

(4) During initial implementation of the provisions of the INF Treaty, the United States was not fully prepared for the personnel requirements for the conduct of on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any strategic arms reduction treaty or agreement will be far more extensive than those for the INF Treaty. The number of locations within the Soviet Union that would possibly be subject to on-site inspections under a START agreement have been estimated to be approximately 2,500 (compared to 120 for the INF Treaty).

(5) On-site inspection procedures are likely to be an integral part of any future arms control treaty or agreement.

(6) Personnel requirements will be extensive for such on-site inspection procedures, both in terms of numbers of personnel and technical and linguistic skills. Since verification requirements for the INF Treaty are already placing severe stress on current personnel resources, the requirements for verification under START and other possible future treaties and agreements may quickly exceed the current number of verification personnel having necessary technical and language skills.

(7) There is a clear need for a database of the names of individuals who are members of the Armed Forces or civilian employees of the United States Government, or of other citizens and nationals of the United States, who are qualified (by reason of technical or language skills) to participate in on-site inspections under an arms control treaty or agreement.

(8) The organization best suited to establish such a database is the On-Site Inspection Agency (OSIA) of the Department of Defense, which was created by the President to implement (for the United States) the on-site inspection provisions of the INF Treaty.

(b) STATUS OF THE OSIA.—(1) Congress finds that—

(A) the Director of the OSIA (currently a brigadier general of the Army) is appointed by the Secretary of Defense with the concurrence of the Secretary of State and the approval of the President;

(B) the Secretary of Defense provides to the Director appropriate policy guidance formulated by the interagency arms control mechanism established by the President;

(C) most of the personnel of the OSIA are members of the Armed Forces (who are trained and paid by the military departments within the Department of Defense) and include linguists, weapons specialists, and foreign area specialists;

(D) the Department of Defense provides the OSIA with substantially all of its administrative and logistic support (including military air transportation for inspections in the Soviet Union and Eastern Europe); and

(E) the facilities in Europe and the United States at which OSIA personnel escort personnel of the Soviet Union conducting inspections under the on-site inspection terms of the INF Treaty are under the jurisdiction of the Department of Defense (or under the jurisdiction of entities that are contractors with the Department of Defense).

(2) In light of the findings in paragraph (1) and the report submitted pursuant to section 909 of Public Law 100–456 entitled "Report to the Congress on U.S. Monitoring and Verification Activities Related to the INF Treaty" (submitted on July 27, 1989), Congress hereby determines that by locating the On-Site Inspection Agency within the Department of Defense for the purposes of administrative and logistic support and operational guidance, and integrating on-site inspection responsibilities under the INF Treaty with existing organizational activities of that Department, the President has been able to ensure that sensitive national security assets are protected and that obligations of the United States under that treaty are fulfilled in an efficient and cost-effective manner.

(c) Establishment of Personnel Database.—(1) In light of the findings in subsection (a), the Director of the On-Site Inspection Agency shall establish a database consisting of the names of individuals who could be assigned or detailed (in the case of Government personnel) or employed (in the case of non-Government personnel) to participate in the conduct of on-site inspections under any future arms control treaty or agreement that includes provisions for such inspections.

(2) The database should be composed of the names of individuals with skills (including linguistic and technical skills) necessary for the conduct of on-site inspections.

(d) INF Treaty Defined.—For purposes of this section, the term "INF Treaty" means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987.

TITLE XI—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

Part A—Force Structure

SEC. 1101. STUDY OF TOTAL FORCE POLICY, FORCE MIX, AND MILITARY FORCE STRUCTURE

(a) Findings.—Congress makes the following findings:

(1) Since the inception of the Total Force Policy in the Department of Defense in 1973, there has never been a comprehensive, authoritative study done by the Department on the operation and effectiveness of that policy.

(2) Decisions within the Department of Defense with respect to military force mix appear to be made in a fragmented and decentralized manner.

(3) A comprehensive study of the Total Force Policy, force mix, and military force structure is long overdue.

(b) Study.—(1) The Secretary of Defense shall convene a study group to review the operation, effectiveness, and soundness of the following policies and practices of the Department of Defense and to make recommendations to the Secretary for improvement of those policies and practices:

(A) The Total Force Policy.

(B) Assignment of missions within and between the active and reserve components of the armed forces.

(C) Force structure of the active and reserve components of the armed forces.

(2) The study group shall include—

(A) senior-level active-duty officers from each branch of the armed forces;

(B) senior-level reserve-component officers from each of the seven reserve components;

(C) civilian officials of the Department of Defense; and

(D) such participants from outside the Department of Defense as the Secretary considers appropriate.

(3) The Chairman of the Joint Chiefs of Staff shall provide such joint staff support to the study group as necessary. He shall participate in the activities of the study group in accordance with the provisions of section 153 of title 10, United States Code, including the responsibility to assess the conformance of manpower programs and policies with strategic plans and to advise the study group about the extent to which program recommendations and budget proposals conform with the priorities established in strategic plans and for the combatant commands.

(4) The Secretary shall ensure that the study group, in carrying out its duties and responsibilities, has access to federally funded research centers (FFRCs) and other necessary support.

(5) The Secretary of Defense shall consult with the Secretary of Transportation with respect to the functions of the study group insofar as they relate to the Selected Reserve of the Coast Guard Reserve.

Classified information.

(6) Meetings of the study group may be closed to the public in connection with the consideration of classified material.

(c) Matters To Be Considered.—(1) In carrying out the study required by subsection (a), the study group shall evaluate and make recommendations to the Secretary concerning each of the following matters (with each such matter to be evaluated separately insofar as it relates to each policy or practice set forth in subparagraphs (A) through (C) of subsection (b)(1)):

(1) With respect to the Total Force Policy of the Department of Defense, the basic tenets of that policy, how well that policy has been implemented, and what changes (if any) are desirable to improve upon that policy and its implementation.

(2) The effectiveness of the existing chain of management and command responsibility in evaluating and integrating force requirements among the armed forces, and between the active components and the reserve components.

(3) The extent to which officials responsible for such evaluation and integration of force requirements currently (and should in the future) participate in the budget and resource allocation processes of the Department of Defense.

(4) The adequacy of the methodology used by the Department of Defense in the assignment of missions between the active and reserve components and, within each active and reserve component, the assignment of missions among various major types of units, including—

(A) the extent to which that methodology includes the use of cost-benefit analyses; and

(B) the methodology for the manner by which force reductions are distributed within individual units and between active and reserve components.

(5) The scope and size of force reductions with respect to major units (such as air wings, carrier groups, and divisions) that would result in an irreversible change of the capability of those units to perform assigned missions, with emphasis on considerations such as mobilization, loss of skilled manpower, equipment, and training.

(d) ADDITIONAL MATTERS TO BE CONSIDERED.—(1) In carrying out its study and making its recommendations, the study group shall also evaluate the process by which decisions within the Department of Defense respecting force mix and force structure are made with regard to the readiness, sustainability, and overall mission capability of the active and reserve forces. The study group shall also consider whether the Department of Defense has a cogent strategy for making such decisions with respect to force mix that anticipates a substantially smaller military force structure in the future and whether the Department has developed a system for regular and systematic top-level evaluation of decisions respecting force mix or reductions in force structure.

(2) In carrying out the evaluation required by paragraph (1), the study group shall consider (among other matters it considers appropriate) the following:

(A) The optimal structure of military forces required to meet the threat as described in net assessments prepared pursuant to section 153 of title 10, United States Code, taking into account currently available and projected budget resources.

(B) The appropriateness of the missions that have been assigned to major units (such as air wings, carrier groups, and divisions) in each of the active and reserve components in view of the status of those units with respect to personnel and equipment resources and training systems.

(C) The response times for the deployment of such units in the event of a mobilization.

(D) An evaluation of the readiness and sustainability of each of the active and reserve components and of the contributions of each such component to the overall military capability of the United States.

(E) The extent to which the active and reserve component units that are identified for use during the first 30 days of a mobilization are prepared to undertake wartime missions (as measured against the standards established by the Chairman of the Joint Chiefs of Staff in accordance with section 153 of title 10, United States Code), the reasons for any lack of preparedness for such missions, and recommendations for measures that would be necessary for those units to become fully mission capable.

(F) The adequacy of equipment distribution and modernization in the active and reserve components, including consideration of the importance of prepositioning of light and heavy equipment in the mobilization process.

(G) The adequacy of the current base of military personnel and equipment available for short notice rotation and deployment in order to meet worldwide defense commitments.

(H) The capability of each component of the active and reserve forces to meet assigned and projected missions at each step in the mobilization process and the adequacy of current airlift and sealift capability.

(I) The resources (including funds) needed for sufficient personnel, equipment, and training to achieve desired force structure and mission capability in both the active and reserve components.

(J) The capability of the active and reserve components, jointly and separately, to respond to mobilization requirements at each stage of the mobilization process.

(d) REPORTS.—(1) The study group shall submit to the Secretary of Defense an interim report on its findings and recommendations at such time as the Secretary may require, but not later than September 1, 1990. The Secretary shall submit the interim report to the Committees on Armed Services of the Senate and the House of Representatives not later than September 15, 1990.

(2) The study group shall submit its final report, including its findings and recommendations, to the Secretary not later than December 1, 1990. The Secretary shall submit the final report of the study group, together with any comment and recommendation of the Secretary, to those committees not later than December 31, 1990.

(e) LIMITATION ON OBLIGATION OF CERTAIN FUNDS IF REPORTS SUBMITTED LATE.—If either of the reports required by subsection (d) is not submitted to those committees by the date specified in that subsection for the report to be submitted, the Secretary of Defense may not, on or after that date, obligate any funds for a new contract for advisory, consultant, or assistance services until the report is submitted.

SEC. 1102. STUDIES OF CLOSE SUPPORT FOR LAND FORCES

(a) SECRETARY OF DEFENSE STUDY.—The Secretary of Defense shall conduct a study of close support, including close air support.

(b) CONTRACTOR STUDY.—In conducting the study required by subsection (a), the Secretary shall provide for a study to be conducted by the Institute for Defense Analysis, a Federal contract research center. The Institute shall submit a report to the Secretary on such study at such time before March 1, 1990, as the Secretary may require.

Reports.

(c) JCS STUDY.—The Chairman of the Joint Chiefs of Staff shall conduct a study of close support, including close air support. The Chairman shall submit a report to the Secretary of Defense on such study at such time before March 1, 1990, as the Secretary may require.

Reports.

(d) STUDIES TO BE INDEPENDENT.—Each study under subsections (a), (b), and (c) shall be conducted independently of the others.

(e) MATTERS TO BE INCLUDED.—The studies conducted under subsections (a), (b), and (c) shall include consideration of each of the following:

(1) The nature of the present, and anticipated future, battlefield across a representative set of conflict levels.

(2) The requirements of the land force for close support across this representative set of conflict levels in terms of targets and time, including the lessons of recent combat experience.

(3) With regard to the battlefields and close support requirements identified pursuant to paragraphs (1) and (2), the current and anticipated ground and air systems capable of meeting these requirements.

(4) With regard to these major systems, their significant characteristics in terms of effectiveness, integration with allies, command and control, survivability, and life-cycle cost.

(5) The implications (in terms of roles and missions) of the selection of, or failure to select, each of these major systems as part of an appropriate force structure.

(f) REPORT TO CONGRESS.—The Secretary of Defense shall submit to Congress a report on the studies conducted under this section. The report shall include—

(1) the findings, conclusions, and recommendations of the Secretary in the study conducted by the Secretary under subsection (a) with respect to each of the matters set forth in subsection (e);

(2) copies of the reports to the Secretary under subsections (b) and (c), including the findings, conclusions, and recommendations contained in those reports; and

(3) such comments on those reports as the Secretary considers appropriate.

(g) TIME FOR SUBMISSION.—The report required under subsection (f) shall be submitted not later than March 1, 1990.

(h) CLOSE AIR SUPPORT DEFINED.—For purposes of this section, the term "close air support", as defined in Joint Chiefs of Staff Publication 1, dated June 1, 1987, means air action against hostile targets which are in close proximity to friendly forces and which require detailed integration of each air mission with the fire and movement of those forces.

SEC. 1103. STRATEGIC AIR DEFENSE ALERT MISSION

(a) READINESS OF AIR NATIONAL GUARD UNITS.—The Secretary of Defense shall ensure that those units of the Air National Guard that are assigned to carry out the strategic air defense mission in the northern portion of the United States retain the capability to generate and maintain a readiness posture that meets the needs of all operations plans of the North American Aerospace Defense Command (NORAD).

(b) FISCAL YEAR 1990 LIMITATION.—During fiscal year 1990, the Secretary of Defense may not reduce the man years or flying hours of the units described in subsection (a).

(c) REPORT.—Not later than March 1, 1990, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the strategic air defense alert mission. The report shall describe the following:

(1) The rationale and goals for the strategic air defense modernization program undertaken jointly by the United States and Canada.

(2) The operational requirements of NORAD in crisis and wartime for generating and forward deploying air defense forces of the Air National Guard based in the northern portion of the United States.

(3) The plans of the Air Force for maintaining the readiness of aircraft, flight crews, maintenance personnel, control tower personnel, and security forces of the air defense units described in subsection (a) to implement NORAD operations plans.

(4) The plans of the Air Force for transitioning from current interceptor aircraft and current peacetime unit alert mission and training practices to new aircraft and new unit alert mis-

sion and training practices, including the effect of such transition on unit manning levels and combat mission readiness.

(5) The current ability of the forward operating bases in Canada to accommodate forward deployment of air defense units on a sustained basis and plans of the Air Force for the improvement of such bases.

(6) The current and planned radars, intercept systems, communications systems, and command elements (together with deployment schedules for those which are planned) that are intended to detect, identify, track, and intercept intruders into northern Canadian airspace during peacetime, during periods of heightened tension, and during hostilities.

(d) Repeal.—Section 713 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1998), is repealed.

SEC. 1104. SENSE OF CONGRESS CONCERNING REASSIGNMENT OF UNITS FROM FORT KNOX, KENTUCKY, TO FORT IRWIN, CALIFORNIA

It is the sense of Congress that any combat unit of battalion or squadron size (or larger size) that on the date of the enactment of this Act is stationed at Fort Knox, Kentucky, shall not be permanently reassigned to Fort Irwin, California.

Part B—General Management Matters

SEC. 1111. ADDITIONAL FUNDING FOR UNIFIED AND SPECIFIED COMBATANT COMMANDS FOR FISCAL YEAR 1990

Of the funds authorized to be appropriated pursuant to section 301 for the Defense Agencies for fiscal year 1990, $25,000,000 shall be available for the establishment of a fund under the management of the Chairman of the Joint Chiefs of Staff for use in response to the request of a commander of a unified or specified combatant command for additional funding of the following activities:

(1) Joint exercises (including foreign country participation).

(2) Force training.

(3) Contingencies.

(4) Selected operations.

(5) Command and control.

(6) Military education and training to military and related civilian personnel of foreign countries.

(7) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

SEC. 1112. CORRECTION OF PAY GRADE FOR NEW ASSISTANT SECRETARY OF THE AIR FORCE

Section 5315 of title 5, United States Code, is amended by striking out "(3)" after "Assistant Secretaries of the Air Force" and inserting in lieu thereof "(4)".

SEC. 1113. CLARIFICATION OF REQUIREMENT FOR COMPLETION OF FULL TOUR OF DUTY AS QUALIFICATION FOR SELECTION AS A JOINT SPECIALTY OFFICER

Section 661(c) of title 10, United States Code, is amended by striking out "(as described in section 664 (f)(1) or (f)(3) of this title)" in paragraphs (1)(B) and (3)(A) and inserting in lieu thereof "(as described in section 664(f) of this title (other than in paragraph (2) thereof))".

PART C—PROFESSIONAL MILITARY EDUCATION

SEC. 1121. REPORTS RELATING TO COURSES OF INSTRUCTION AT CERTAIN PROFESSIONAL MILITARY EDUCATION SCHOOLS AND PROFESSIONAL MILITARY EDUCATION REQUIREMENTS FOR PROMOTION TO GENERAL OR FLAG GRADE

(a) SERVICE SECRETARIES REPORTS.—(1) The Secretary of each military department shall submit to the Secretary of Defense a report—

(A) evaluating the principal courses of instruction at each intermediate or senior professional military education school operated by that department in light of the mission of that school; and

(B) recommending the appropriate duration for those courses and the level and courses of professional military education that should be required before an officer is selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half).

(2) The reports required by paragraph (1) shall be prepared independently of the report required by subsection (b) and independently of each other.

(3) The reports required by paragraph (1) shall be submitted at such time as may be required by the Secretary of Defense.

(b) SECRETARY OF DEFENSE REPORT.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) containing copies of the reports submitted to the Secretary under subsection (a), together with such comments on each report as the Secretary considers appropriate;

(B) evaluating the principal courses of instruction at each intermediate or senior professional military education school in light of the mission of that school; and

(C) recommending the appropriate duration for those courses and the level and types of professional military education that should be required before an officer is selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half).

(2) The report required by paragraph (1) shall be submitted not later than April 2, 1990.

(c) OTHER MATTERS TO BE INCLUDED IN REPORTS.—The reports required by subsection (a) and subsection (b) shall include a discussion of the following:

(1) The implications of establishing by law a minimum length of 10 months duration for the principal courses of instruction at each intermediate or senior professional military education school.

(2) The implications of requiring by law, beginning January 1, 1999, that a prerequisite for selection of an officer for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) shall be graduation from an intermediate professional military education school and a senior professional military education school.

(3) The practicability of providing that—

(A) the promotion eligibility of an officer may not be adversely affected by the attendance of the officer at a professional military education course of 10 months or more at an intermediate or senior professional military education school; and

(B) an officer who attends a professional military education course of 10 months or more at an intermediate or senior professional military education school shall be entitled to an additional year of service for each such course to prevent prejudice when considering the officer for discharge or retirement pursuant to subchapter III of chapter 36 of title 10, United States Code—

(i) for failure of selection for promotion; or

(ii) for years of service.

(d) INTERMEDIATE OR SENIOR PROFESSIONAL MILITARY EDUCATION SCHOOL DEFINED.—For purposes of this section, the term "intermediate or senior professional military education school" means any of the following:

(1) The Army War College.

(2) The College of Naval Warfare.

(3) The Air War College.

(4) The United States Army Command and General Staff College.

(5) The College of Naval Command and Staff.

(6) The Air Command and Staff College.

(7) The Marine Corps Command and Staff College.

SEC. 1122. CLARIFICATION REGARDING SCHOOLS THAT ARE JOINT PROFESSIONAL MILITARY EDUCATION SCHOOLS FOR PURPOSES OF QUALIFICATION OF OFFICERS FOR JOINT SPECIALTY

Section 661(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) For purposes of this chapter, a school that is organized within, and operated by, a military department may not be construed to be a joint professional military education school.".

SEC. 1123. PROFESSIONAL MILITARY EDUCATION IN JOINT MATTERS

(a) EXISTING EFFORTS TO IMPROVE PROFESSIONAL MILITARY EDUCATION.—(1) The Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 992) mandated—

(A) the strengthening of the focus on joint matters in courses of instruction offered by professional military education schools operated by the military departments; and

(B) the maintenance of rigorous standards at joint professional military education schools for the education of joint specialty officers.

(2) Congress applauds the actions taken since 1986 by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, consistent with such mandate, to improve professional military education provided by intermediate and senior professional military education schools.

(b) STATEMENT OF CONGRESSIONAL POLICY.—As part of the efforts of the Secretary of Defense to improve professional military education, Congress urges, as a matter of policy, and fully expects the Secretary to establish the following:

(1) A coherent and comprehensive framework for the education of officers, including officers nominated for the joint specialty.

(2) A two-phase approach to strengthening the focus on joint matters, as follows:

(A) Phase I instruction consisting of a joint curriculum, in addition to the principal curriculum taught to all officers at service-operated professional military education schools.

(B) Phase II instruction consisting of a follow-on, solely joint curriculum taught at the Armed Forces Staff College to officers who are expected to be selected for the joint specialty. The curriculum should emphasize multiple "hands on" exercises and must adequately prepare students to perform effectively from the outset in what will probably be their first exposure to a totally new environment, an assignment to a joint, multiservice organization. Phase II instruction should be structured so that students progress from a basic knowledge of joint matters learned in Phase I to the level of expertise necessary for successful performance in the joint arena.

(3) A sequenced approach to joint education in which the norm would require an officer to complete Phase I instruction before proceeding to Phase II instruction. An exception to the normal sequence should be granted by the Chairman of the Joint Chiefs of Staff only on a case-by-case basis for compelling cause. Officers selected to receive such an exception should be required to demonstrate a basic knowledge of joint matters and other aspects of the Phase I curriculum that qualifies them to meet the minimum requirements established for entry into Phase II instruction without first completing Phase I instruction. The number of officers selected to attend an offering of the principal course of instruction at the Armed Forces Staff College who have not completed Phase I instruction should comprise only a small portion of the total number of officers selected.

(c) DURATION OF PRINCIPAL COURSE OF INSTRUCTION AT THE ARMED FORCES STAFF COLLEGE.—(1) Section 663 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) DURATION OF PRINCIPAL COURSE OF INSTRUCTION AT ARMED FORCES STAFF COLLEGE.—The duration of the principal course of instruction offered at the Armed Forces Staff College may not be less than three months.".

(2) Subsection (e) of such section, as added by paragraph (1), shall be implemented by the Secretary of Defense not later than two years after the date of the enactment of this Act.

(d) INFORMATION REGARDING STUDENTS ATTENDING THE ARMED FORCES STAFF COLLEGE.—Section 667 of such title is amended—

(1) by redesignating paragraph (17) as paragraph (18); and

(2) by inserting after paragraph (16) the following new paragraph:

"(17) With regard to each time the principal course of instruction at the Armed Forces Staff College is offered—

"(A) the number of officers selected to attend that course who did not first complete while in residence at a professional military education school operated by a military department the principal course of instruction offered at that school;

"(B) the number of those officers as a percentage of all officers who attended that course of instruction at the Armed Forces Staff College;

"(C) a description of the different reasons why officers were selected to attend that course without first attending the principal course of instruction offered at a professional military education school operated by a military department; and

"(D) the number of officers so selected for each such reason.".

(e) JOINT MATTERS DEFINED.—For purposes of this section, the term "joint matters" has the meaning given to that term in section 668(a) of title 10, United States Code.

SEC. 1124. EMPLOYMENT OF CIVILIAN FACULTY MEMBERS AT PROFESSIONAL MILITARY EDUCATION SCHOOLS

(a) NATIONAL DEFENSE UNIVERSITY.—(1) Chapter 81 of title 10, United States Code, is amended by adding after section 1594 (as added by section 664(b)) the following new section:

"§ 1595. National Defense University: civilian faculty members

"(a) AUTHORITY OF SECRETARY.—The Secretary of Defense may employ as many civilians as professors, instructors, and lecturers at the National Defense University as the Secretary considers necessary.

"(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at the National Defense University after the end of the 90-day period beginning on the date of the enactment of this section.

"(d) NATIONAL DEFENSE UNIVERSITY DEFINED.—In this section, the term 'National Defense University' includes the National War College, the Armed Forces Staff College, and the Industrial College of the Armed Forces.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1594 (as added by section 664(b)) the following new item:

"1595. National Defense University: civilian faculty members.".

(b) ARMY WAR COLLEGE AND UNITED STATES ARMY COMMAND AND GENERAL STAFF COLLEGE.—(1) Chapter 373 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

"§ 4021. Army War College and United States Army Command and General Staff College: civilian faculty members

"(a) AUTHORITY OF SECRETARY.—The Secretary of the Army may employ as many civilians as professors, instructors, and lecturers at the Army War College or the United States Army Command and General Staff College as the Secretary considers necessary.

"(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—(1) Except as provided in paragraph (2), this section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at the Army War College or the United States Army Command and General Staff College after the

end of the 90-day period beginning on the date of the enactment of this section.

"(2) This section shall not apply with respect to professors, instructors, and lecturers employed at the Army War College or the United States Army Command and General Staff College if the duration of the principal course of instruction offered at the college involved is less than 10 months.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 4024 the following new item:

"4021. Army War College and United States Army Command and General Staff College: civilian faculty members.".

(c) NAVAL WAR COLLEGE AND MARINE CORPS COMMAND AND STAFF COLLEGE.—(1) Section 7478 of title 10, United States Code, is amended to read as follows:

"§ 7478. Naval War College and Marine Corps Command and Staff College: civilian faculty members

"(a) AUTHORITY OF SECRETARY.—The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at a school of the Naval War College or at the Marine Corps Command and Staff College as the Secretary considers necessary.

"(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall not apply with respect to professors, instructors, and lecturers employed at a school of the Naval War College or at the Marine Corps Command and Staff College if the duration of the principal course of instruction offered at the school or college involved is less than 10 months.".

(2) The item relating to such section in the table of sections at the beginning of chapter 643 of such title is amended to read as follows:

"7478. Naval War College and Marine Corps Command and Staff College: civilian faculty members.".

(d) AIR UNIVERSITY.—(1) Chapter 873 of title 10, United States Code, is amended by inserting after the table of sections the following new section:

"§ 9021. Air University: civilian faculty members

"(a) AUTHORITY OF SECRETARY.—The Secretary of the Air Force may employ as many civilians as professors, instructors, and lecturers at a school of the Air University as the Secretary considers necessary.

"(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—(1) Except as provided in paragraph (2), this section shall apply with respect to persons who are selected by the Secretary for employment as professors, instructors, and lecturers at a school of the Air University after the end of the 90-day period beginning on the date of the enactment of this section.

"(2) This section shall not apply with respect to professors, instructors, and lecturers employed at a school of the Air University if the

duration of the principal course of instruction offered at that school is less than 10 months.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 9025 the following new item:

"9021. Air University: civilian faculty members.".

(e) CONFORMING AMENDMENTS.—Section 5102(c)(10) of title 5, United States Code, is amended—

(1) by inserting after "(10)" the following: "civilian professors, instructors, and lecturers at a professional military education school whose pay is fixed under section 1595, 4021, 7478, or 9021 of title 10;";

(2) by striking out "the Naval War College and"; and

(3) by striking out "sections 6952 and 7478" and inserting in lieu thereof "section 6952".

PART D—CONTRACTING OUT

SEC. 1131. ONE-YEAR EXTENSION OF AUTHORITY OF BASE COMMANDERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES

(a) IN GENERAL.—(1) Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2468. Military installations: authority of base commanders over contracting for commercial activities

"(a) AUTHORITY OF BASE COMMANDER.—The Secretary of Defense shall direct that the commander of each military installation shall have the authority and the responsibility to enter into contracts in accordance with this section for the performance of a commercial activity on the military installation.

"(b) YEARLY DUTIES OF BASE COMMANDER.—To enter into a contract under subsection (a) for a fiscal year, the commander of a military installation shall—

"(1) prepare an inventory for that fiscal year of commercial activities carried out by Government personnel on the military installation;

"(2) decide which commercial activities shall be reviewed under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy); and

"(3) conduct a solicitation for contracts for the performance of those commercial activities selected for conversion to contractor performance under the Circular A-76 process.

Regulations.

"(c) LIMITATIONS.—(1) The Secretary of Defense shall prescribe regulations under which the commander of each military installation may exercise the authority and responsibility provided under subsection (a).

"(2) The authority and responsibility provided under subsection (a) are subject to the authority, direction, and control of the Secretary.

"(d) ASSISTANCE TO DISPLACED EMPLOYEES.—If the commander of a military installation enters into a contract under subsection (a), the commander shall, to the maximum extent practicable, assist in finding suitable employment for any employee of the Department of Defense who is displaced because of that contract.

"(e) MILITARY INSTALLATION DEFINED.—In this section, the term 'military installation' means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within the United States, the Commonwealth of Puerto Rico, or Guam.

"(f) TERMINATION OF AUTHORITY.—The authority provided to commanders of military installations by subsection (a) shall terminate on September 30, 1990.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2468. Military installations: authority of base commanders over contracting for commercial activities.".

(b) EFFECTIVE DATE.—Section 2468 of title 10, United States Code (as added by subsection (a)), shall take effect as of October 1, 1989.

SEC. 1132. EXCEPTION FROM COST COMPARISON PROCEDURES FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED INDIVIDUALS

Section 2461 of title 10, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) WAIVER FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED PERSONS.—Subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that—

"(1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner-O'Day Act; or

"(2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped persons in accordance with that Act.".

SEC. 1133. COMMERCIAL ACTIVITIES STUDY FOR BASE SUPPORT OPERATIONS AT FORT BENJAMIN HARRISON

Indiana.

(a) STUDY REQUIRED.—Commercial activities carried out by Government personnel at Fort Benjamin Harrison, Indiana, may not be converted to performance by private contractor under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) until the Secretary of the Army completes a new commercial activities study for the military installation.

(b) CONTENT OF STUDY.—The commercial activities study referred to in subsection (a) shall include—

(1) work-load data through fiscal year 1989; and

(2) sufficient data regarding the commercial activities examined for possible conversion to performance by private contractor to permit the use of fixed-price contracts for those commercial activities selected for conversion.

SEC. 1134. EVALUATION AND REPORT ON COMMERCIAL ACTIVITIES STUDY AT THE NIAGARA FALLS AIR FORCE RESERVE BASE

(a) EVALUATION AND REPORT REQUIRED.—Commercial activities carried out by Government personnel at the Niagara Falls Air Force Reserve Base, New York, may not be converted to performance by private contractor under the procedures and requirements of Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) until completion of the following:

(1) The Comptroller General of the United States—

(A) evaluates the accuracy of the most recently completed commercial activities study for the Niagara Falls Air Force Reserve Base, including an analysis of comparable situations at other military installations in the United States; and

(B) submits to the Secretary of the Air Force a report describing the results of such evaluation.

(2) The Secretary of the Air Force submits to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(A) a copy of the report submitted by the Comptroller General;

(B) such comments on the report as the Secretary considers appropriate; and

(C) a determination by the Secretary regarding the desirability of converting commercial activities at the Niagara Falls Air Force Reserve Base to performance by private contractor.

(b) Deadline for Submission of Report.—The report required by subsection (a)(2) shall be submitted not later than 60 days after the date of the enactment of this Act.

TITLE XII—MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1201. FUNDING FOR MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

(a) In General.—(1) Of the amounts appropriated pursuant to this Act for the Department of Defense for fiscal year 1990, not more than $450,000,000 shall be available from the sources and in the amounts specified in paragraph (2) for carrying out the drug interdiction and counter-drug activities provided for in this title.

(2) The amounts and sources referred to in paragraph (1) are as follows:

(A) $182,000,000 of the amounts appropriated pursuant to title I for fiscal year 1990.

(B) $28,000,000 of the amounts appropriated pursuant to title II for fiscal year 1990.

(C) $235,000,000 of the amounts appropriated pursuant to title III for fiscal year 1990.

(D) $5,000,000 of the amounts appropriated pursuant to division B for land acquisition and construction.

(b) Operations of the Department of Defense.—Of the amount made available under subsection (a), $284,000,000 shall be available to carry out the mission of the Department of Defense relating to drug interdiction and counter-drug activities (other than purposes specified in subsections (c) through (g)).

(c) National Guard.—Of the amount made available under subsection (a), $70,000,000 shall be available to provide funds under section 1207 for the purpose of drug interdiction by, and counter-drug activities of, the National Guard.

(d) INTEGRATION OF C3I ASSETS.—Of the amount made available under subsection (a), $27,000,000 shall be available to carry out the activities of the Department of Defense under section 1204.

(e) RESEARCH AND DEVELOPMENT.—Of the amount made available under subsection (a), $28,000,000 shall be available to carry out research and development activities referred to in section 1205.

(f) CIVIL AIR PATROL.—Of the amount made available under subsection (a), $1,000,000 shall be available to support Civil Air Patrol activities under section 1209.

(g) OTHER ASSISTANCE.—Of the amount made available under subsection (a), $40,000,000 shall be available to carry out the authority of the Secretary under section 1212 to provide additional counter-drug support to civilian agencies.

SEC. 1202. DEPARTMENT OF DEFENSE AS LEAD AGENCY FOR THE DETECTION AND MONITORING OF AERIAL AND MARITIME TRANSIT OF ILLEGAL DRUGS

(a) FUNCTION OF DEPARTMENT OF DEFENSE.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123 the following new section:

"§ 124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency

"(a) LEAD AGENCY.—The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

"(b) PERFORMANCE OF DETECTION AND MONITORING FUNCTION.—(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

"(A) identifying and communicating with that vessel or aircraft; and

"(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

"(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

"(c) UNITED STATES DEFINED.—In this section, the term 'United States' means the land area of the several States and any territory, commonwealth, or possession of the United States.".

(2) The table of sections of such chapter is amended by inserting after the item relating to section 123 the following new item:

"124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency.".

(b) CONFORMING REPEAL.—Section 1102 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2042), is repealed. 10 USC 113 note.

SEC. 1203. BUDGET PROPOSALS RELATING TO DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

The budget of the United States Government submitted to Congress under section 1105 of title 31, United States Code, for fiscal years 1991 and 1992 shall set forth separately the amount requested for the mission of the Department of Defense related to drug interdiction and counter-drug activities in support of civilian agencies.

10 USC 124 note.

SEC. 1204. COMMUNICATIONS NETWORK

(a) INTEGRATION OF NETWORK.—(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy.

(b) CONFORMING REPEAL.—Section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2042), is repealed. 10 USC 374 note.

10 USC 124 note.

SEC. 1205. RESEARCH AND DEVELOPMENT

The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve—

(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and

(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers.

10 USC 124 note.

SEC. 1206. TRAINING EXERCISES IN DRUG-INTERDICTION AREAS

(a) EXERCISES REQUIRED.—The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

(b) REPORT.—(1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

(2) The report shall include—

(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and

(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

(c) DRUG-INTERDICTION AREAS DEFINED.—For purposes of this section, the term "drug-interdiction areas" includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred.

SEC. 1207. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES OF THE NATIONAL GUARD

(a) ASSISTANCE AUTHORIZED.—(1) Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

"§ 112. Drug interdiction and counter-drug activities

"(a) FUNDING ASSISTANCE.—The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for—

"(1) the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that State used for—

"(A) the purpose of drug interdiction and counter-drug activities; and

"(B) the operation and maintenance of the equipment and facilities of the National Guard of that State used for that purpose; and

"(2) the procurement of services and leasing of equipment for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.

"(b) PLAN REQUIREMENTS.—A plan referred to in subsection (a) shall—

"(1) specify how personnel of the National Guard of that State are to be used in drug interdiction and counter-drug activities;

"(2) certify that those operations are to be conducted at a time when the personnel involved are not in Federal service; and

"(3) certify that participation by National Guard personnel in those operations is service in addition to annual training required under section 502 of this title.

"(c) EXAMINATION OF PLAN.—(1) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall examine the adequacy of the plan submitted by the Governor under subsection (b).

"(2) Except as provided in paragraph (3), the Secretary shall carry out paragraph (1) in consultation with—

"(A) the Attorney General of the United States in the case of a plan submitted for fiscal year 1990; and

"(B) the Director of National Drug Control Policy in the case of a plan submitted for subsequent fiscal years.

"(3) Paragraph (2) shall not apply if—

"(A) the Governor of a State submits a plan under subsection (b) that is substantially the same as a plan submitted for that State for a previous fiscal year; and

"(B) funds were provided to the State pursuant to such plan.

"(d) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

"(e) EXCLUSION FROM END-STRENGTH COMPUTATION.—(1) Members of the National Guard on active duty or full-time National Guard duty for the purposes of administering this section shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 517 and 524 of title 10.

Reports.

"(2) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report specifying for the period covered by the report the number of members of the National Guard excluded under paragraph (1) from the computation of end strengths.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'counter-drug activities' includes the use of National Guard personnel, while not in Federal service, in any law enforcement activities authorized by State and local law and requested by the Governor.

"(2) The term 'Governor of a State' means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

"(3) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"112. Drug interdiction and counter-drug activities.".

(b) CONFORMING REPEAL.—Section 1105 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2047), is repealed. 10 USC 374 note.

10 USC 372 note.

SEC. 1208. TRANSFER OF EXCESS PERSONAL PROPERTY

(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by such agencies in counter-drug activities; and

(B) excess to the needs of the Department of Defense.

(2) Personal property transferred under this section may be transferred without cost to the recipient agency.

(3) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

(b) CONDITIONS FOR TRANSFER.—The Secretary may transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense; and

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment.

(c) APPLICATION.—The authority of the Secretary to transfer personal property under this section shall expire on September 30, 1992.

SEC. 1209. CIVIL AIR PATROL

To the extent funds are available under section 1201(f), the Secretary of Defense shall pay for expenses incurred by the Civil Air Patrol in conducting drug surveillance flights.

SEC. 1210. OPERATION OF EQUIPMENT USED TO TRANSPORT CIVILIAN LAW ENFORCEMENT PERSONNEL

Section 374(b)(2)(E) of title 10, United States Code, is amended by striking out ", the Attorney General" and all that follows through "outside the land area of the United States" and inserting in lieu thereof "and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)".

SEC. 1211. RESTRICTION ON DIRECT PARTICIPATION BY MILITARY PERSONNEL

Section 375 of title 10, United States Code, is amended—

(1) by striking out "the provision of any support" and inserting in lieu thereof "any activity";

(2) by striking out "to any civilian law enforcement official"; and

(3) by striking out "a search and seizure, an arrest," and inserting in lieu thereof "a search, seizure, arrest,".

SEC. 1212. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

At the request of the head of a Federal agency with counter-drug responsibilities, the Secretary of Defense during fiscal year 1990 may provide support for the counter-drug activities of that agency as follows:

(1) Maintenance and repair of equipment that has been made available by the Department of Defense under chapter 18 of title 10, United States Code, in order to preserve the potential future utility of such equipment to the Department of Defense.

(2) Transportation of personnel, supplies, and equipment for purposes of facilitating a counter-drug operation.

(3) Establishment and operation of a base of operations for purposes of facilitating a counter-drug operation.

(4) Loan of National Guard equipment, subject to such minimum standards of care and maintenance and such minimum training and proficiency requirements for persons who are to use such equipment as the Secretary considers appropriate.

(5) Training of personnel.

SEC. 1213. REPORTS

President of U.S.

(a) BY THE PRESIDENT.—Not later than April 1, 1990, the President shall submit to Congress a report—

(1) describing the progress made on implementation of the plan required by section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (10 U.S.C. 374 note);

(2) containing an analysis of the feasibility of establishing a National Drug Operations Center for the integration, coordination, and control of all drug interdiction operations; and

(3) describing how intelligence activities relating to narcotics trafficking can be integrated, including—

(A) coordinating the collection and analysis of intelligence information;

(B) ensuring the dissemination of relevant intelligence information to officials with responsibility for narcotics policy and to agencies responsible for interdiction, eradication, law enforcement, and other counter-drug activities; and

(C) coordinating and controlling all intelligence activities relating to counter-drug activities.

(b) BY THE SECRETARY OF DEFENSE.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit a report to Congress—

(A) on the specific drug-related research and development projects to be funded, and the planned allocation of funding for such projects, under section 1205;

(B) on the feasibility of detailing officers in the Judge Advocate General's Corps of the military departments to the Department of Justice to assist in the prosecution of drug cases in areas in which there is a lack of sufficient prosecutorial resources;

(C) on the feasibility of increasing the use of the resources and personnel of the Special Operations Command in drug interdiction and counter-drug activities; and

(D) on the desirability and feasibility of assigning active-duty members of the Armed Forces, at the request of the Secretary of the Treasury and with the approval of the Secretary of Defense, to assist the United States Customs Service in the inspection of cargo, vehicles, vessels, and aircraft at points of entry into the United States.

In preparing the report required by this paragraph, the Secretary shall consult with the Director of National Drug Control Policy and other appropriate heads of agencies.

(2) Not later than April 1, 1990, the Secretary of Defense shall submit a report to Congress on—

(A) the feasibility of establishing aerial and maritime navigational corridors by which civilian aircraft and vessels may travel through drug interdiction areas, as defined in section 1206(c);

(B) the feasibility of requiring the submission of navigational plans for all civilian aircraft and vessels that will travel in such areas; and

(C) the funding considered necessary to implement a plan to carry out the matters referred to in subparagraphs (A) and (B).

In preparing the report required by this paragraph, the Secretary shall consult with the Secretary of Transportation and the Director of National Drug Control Policy.

(3) Not later than February 1 of 1990 and 1991, the Secretary of Defense shall submit to Congress a report on the drug interdiction and counter-drug activities of the Department of Defense under chapter 18, United States Code, and other applicable provisions of law during the preceding fiscal year. The report shall include—

(A) specific information as to the size, scope, and results of Department of Defense drug interdiction operations;

(B) specific information on the nature and terms of interagency agreements with other agencies relating to drug interdiction; and

(C) any recommendations for additional legislation that the Secretary determines would assist in furthering the ability of the Department to perform its mission under that chapter or to assist other agencies.

SEC. 1214. SENSE OF CONGRESS ON NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM

(a) FINDINGS.—Congress finds the following:

(1) The Anti-Drug Abuse Act of 1988 (Public Law 100-690) terminated the National Narcotics Border Interdiction System (NNBIS).

(2) The National Narcotics Border Interdiction System provided valuable information and support to State and local law enforcement agencies involved in drug interdiction activities.

(b) SENSE OF CONGRESS.—In light of the findings specified in subsection (a), it is the sense of Congress that the cooperation that existed between State and local law enforcement officials and the Federal agencies participating in the National Narcotics Border

Interdiction System should, to the extent possible, be continued and enhanced by the President.

SEC. 1215. COOPERATIVE EFFORTS AGAINST ILLEGAL DRUGS

(a) AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.—Section 511(e)(3)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(3)(B)), as added by section 6077(a) of the Asset Forfeiture Amendments Act of 1988 (Public Law 100–690; 102 Stat. 4324), is amended to read as follows:

"(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of October 1, 1989. 21 USC 881 note.

SEC. 1216. TECHNICAL AND CLERICAL AMENDMENTS RELATING TO MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

(a) CHAPTER DESIGNATION.—The chapter following chapter 17 of title 10, United States Code (relating to military support for civilian law enforcement agencies), is redesignated as chapter 18.

(b) REFERENCE TO TARIFF SCHEDULES.—Section 374(b)(4) of such title is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" in subparagraph (A)(iii) and inserting in lieu thereof "general note 2 of the Harmonized Tariff Schedule of the United States".

(c) CROSS-REFERENCE AMENDMENT.—Section 374(c) of such title is amended by striking out "paragraph (2)" and inserting in lieu thereof "subsection (b)(2)".

TITLE XIII—MILITARY APPELLATE PROCEDURES

SEC. 1301. COURT OF MILITARY APPEALS

(a) REVIEW BY THE COURT UNDER ARTICLE 67.—Section 867 (article 67) of title 10, United States Code, is amended—

(1) by striking out subsections (a), (g), (h), and (i); and

(2) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (a), (b), (c), (d), and (e) respectively.

(b) RESTATEMENT OF CERTIORARI PROVISION.—Subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after section 867 (article 67) the following new section (article):

"§ 867a. Art. 67a. Review by the Supreme Court

"(a) Decisions of the United States Court of Military Appeals are subject to review by the Supreme Court by writ of certiorari as provided in section 1259 of title 28. The Supreme Court may not review by a writ of certiorari under this section any action of the Court of Military Appeals in refusing to grant a petition for review.

"(b) The accused may petition the Supreme Court for a writ of certiorari without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.".

(c) RESTATEMENT AND REVISION OF COMA CHARTER.—Chapter 47 of such title is amended by adding at the end the following new subchapter:

"SUBCHAPTER XI—COURT OF MILITARY APPEALS

"Sec. Art.
"941. 141. Status.
"942. 142. Judges.
"943. 143. Organization and employees.
"944. 144. Procedure.
"945. 145. Annuities for judges and survivors.
"946. 146. Code committee.

"§ 941. Art. 141. Status

"There is a court of record known as the United States Court of Military Appeals. The court is established under article I of the Constitution. The court is located for administrative purposes only in the Department of Defense.

"§ 942. Art. 142. Judges

"(a) NUMBER.—The United States Court of Military Appeals consists of five judges.

"(b) APPOINTMENT; QUALIFICATION.—(1) Each judge of the court shall be appointed from civil life by the President, by and with the advice and consent of the Senate, for a specified term determined under paragraph (2). A judge may serve as a senior judge as provided in subsection (e).

"(2) The term of a judge shall expire as follows:

"(A) In the case of a judge who is appointed after March 31 and before October 1 of any year, the term shall expire on September 30 of the year in which the fifteenth anniversary of the appointment occurs.

"(B) In the case of a judge who is appointed after September 30 of any year and before April 1 of the following year, the term shall expire fifteen years after such September 30.

"(3) Not more than three of the judges of the court may be appointed from the same political party, and no person may be appointed to be a judge of the court unless the person is a member of the bar of a Federal court or the highest court of a State.

"(c) REMOVAL.—Judges of the court may be removed from office by the President, upon notice and hearing, for—

"(1) neglect of duty;
"(2) misconduct; or
"(3) mental or physical disability.

A judge may not be removed by the President for any other cause.

"(d) PAY AND ALLOWANCES.—Each judge of the court is entitled to the same salary and travel allowances as are, and from time to time may be, provided for judges of the United States Courts of Appeals.

"(e) SENIOR JUDGES.—(1) A former judge of the court who is receiving retired pay or an annuity under section 945 of this title (article 145) or under subchapter III of chapter 83 or chapter 84 of title 5 shall be a senior judge.

"(2)(A) The chief judge of the court may call upon a senior judge of the court, with the consent of the senior judge, to perform judicial duties with the court—

"(i) during a period a judge of the court is unable to perform his duties because of illness or other disability;

"(ii) during a period in which a position of judge of the court is vacant; or

"(iii) in any case in which a judge of the court recuses himself.

"(B) A senior judge shall be paid for each day on which he performs judicial duties with the court an amount equal to the daily equivalent of the annual rate of pay provided for a judge of the court. Such pay shall be in lieu of retired pay and in lieu of an annuity under section 945 of this title (article 145), subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, or any other retirement system for employees of the Federal Government.

"(3) A senior judge, while performing duties referred to in paragraph (2), shall be provided with such office space and staff assistance as the chief judge considers appropriate and shall be entitled to the per diem, travel allowances, and other allowances provided for judges of the court.

"(4) A senior judge shall be considered to be an officer or employee of the United States with respect to his status as a senior judge, but only during periods the senior judge is performing duties referred to in paragraph (2). For the purposes of section 205 of title 18, a senior judge shall be considered to be a special government employee during such periods. Any provision of law that prohibits or limits the political or business activities of an employee of the United States shall apply to a senior judge only during such periods.

"(5) The court shall prescribe rules for the use and conduct of senior judges of the court. The chief judge of the court shall transmit such rules, and any amendments to such rules, to the Committees on Armed Services of the Senate and the House of Representatives not later than 15 days after the issuance of such rules or amendments, as the case may be.

"(6) For purposes of subchapter III of chapter 83 of title 5 (relating to the Civil Service Retirement and Disability System) and chapter 84 of such title (relating to the Federal Employees' Retirement System) and for purposes of any other Federal Government retirement system for employees of the Federal Government—

"(A) a period during which a senior judge performs duties referred to in paragraph (2) shall not be considered creditable service;

"(B) no amount shall be withheld from the pay of a senior judge as a retirement contribution under section 8334, 8343, 8422, or 8432 of title 5 or under any other such retirement system for any period during which the senior judge performs duties referred to in paragraph (2);

"(C) no contribution shall be made by the Federal Government to any retirement system with respect to a senior judge for any period during which the senior judge performs duties referred to in paragraph (2); and

"(D) a senior judge shall not be considered to be a reemployed annuitant for any period during which the senior judge performs duties referred to in paragraph (2).

"(f) SERVICE OF ARTICLE III JUDGES.—(1) The Chief Justice of the United States, upon the request of the chief judge of the court, may designate a judge of a United States court of appeals or of a United States district court to perform the duties of judge of the United States Court of Military Appeals—

"(A) during a period a judge of the court is unable to perform his duties because of illness or other disability; or

"(B) in any case in which a judge of the court recuses himself.

"(2) A designation under paragraph (1) may be made only with the consent of the designated judge and the concurrence of the chief judge of the court of appeals or district court concerned.

"(3) Per diem, travel allowances, and other allowances paid to the designated judge in connection with the performance of duties for the court shall be paid from funds available for the payment of per diem and such allowances for judges of the court.

"(g) Effect of Vacancy on Court.—A vacancy on the court does not impair the right of the remaining judges to exercise the powers of the court.

"§ 943. Art. 143. Organization and employees

President of U.S.

"(a) Chief Judge.—The President shall designate from time to time one of the judges of the United States Court of Military Appeals to be chief judge of the court.

"(b) Precedence of Judges.—The chief judge of the court shall have precedence and preside at any session that he attends. The other judges shall have precedence and preside according to the seniority of their original commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"(c) Status of Attorney Positions.—(1) Attorney positions of employment under the Court of Military Appeals are excepted from the competitive service. Appointments to such positions shall be made by the court, without the concurrence of any other officer or employee of the executive branch, in the same manner as appointments are made to other executive branch positions of a confidential or policy-determining character for which it is not practicable to examine or to hold a competitive examination. Such positions shall not be counted as positions of that character for purposes of any limitation on the number of positions of that character provided in law.

"(2) In making appointments to the positions described in paragraph (1), preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

"§ 944. Art. 144. Procedure

"The United States Court of Military Appeals may prescribe its rules of procedure and may determine the number of judges required to constitute a quorum.

"§ 945. Art. 145. Annuities for judges and survivors

"(a) Retirement Annuities for Judges.—(1) A person who has completed a term of service for which he was appointed as a judge of the United States Court of Military Appeals is eligible for an annuity under this section upon separation from civilian service in the Federal Government.

"(2) A person who is eligible for an annuity under this section shall be paid that annuity if, at the time he becomes eligible to receive that annuity, he elects to receive that annuity in lieu of any other annuity for which he may be eligible at the time of such election (whether an immediate or a deferred annuity) under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5 or any other retirement system for civilian employees of the Federal Government. Such an election may not be revoked.

"(3)(A) The Secretary of Defense shall notify the Director of the Office of Personnel Management whenever an election under paragraph (2) is made affecting any right or interest under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5 based on service as a judge of the United States Court of Military Appeals.

"(B) Upon receiving any notification under subparagraph (A) in the case of a person making an election under paragraph (2), the Director shall determine the amount of the person's lump-sum credit under subchapter III of chapter 83 or subchapter II of chapter 84 of title 5, as applicable, and shall request the Secretary of the Treasury to transfer such amount from the Civil Service Retirement and Disability Fund to the Department of Defense Military Retirement Fund. The Secretary of the Treasury shall make any transfer so requested.

"(C) In determining the amount of a lump-sum credit under section 8331(8) of title 5 for purposes of this paragraph—

"(i) interest shall be computed using the rates under section 8334(e)(3) of such title; and

"(ii) the completion of 5 years of civilian service (or longer) shall not be a basis for excluding interest.

"(b) AMOUNT OF ANNUITY.—The annuity payable under this section to a person who makes an election under subsection (a)(2) is 80 percent of the rate of pay for a judge in active service on the United States Court of Military Appeals as of the date on which the person is separated from civilian service.

"(c) RELATION TO THRIFT SAVINGS PLAN.—Nothing in this section affects any right of any person to participate in the thrift savings plan under section 8351 of title 5 or subchapter III of chapter 84 of such title.

Regulations.

"(d) SURVIVOR ANNUITIES.—The Secretary of Defense shall prescribe by regulation a program to provide annuities for survivors and former spouses of persons receiving annuities under this section by reason of elections made by such persons under subsection (a)(2). That program shall, to the maximum extent practicable, provide benefits and establish terms and conditions that are similar to those provided under survivor and former spouse annuity programs under other retirement systems for civilian employees of the Federal Government. The program may include provisions for the reduction in the annuity paid the person as a condition for the survivor annuity. An election by a judge (including a senior judge) or former judge to receive an annuity under this section terminates any right or interest which any other individual may have to a survivor annuity under any other retirement system for civilian employees of the Federal Government based on the service of that judge or former judge as a civilian officer or employee of the Federal Government (except with respect to an election under subsection (g)(1)(B)).

"(e) COST-OF-LIVING INCREASES.—The Secretary of Defense shall periodically increase annuities and survivor annuities paid under this section in order to take account of changes in the cost of living. The Secretary shall prescribe by regulation procedures for increases in annuities under this section. Such system shall, to the maximum extent appropriate, provide cost-of-living adjustments that are similar to those that are provided under other retirement systems for civilian employees of the Federal Government.

Regulations.

"(f) DUAL COMPENSATION.—A person who is receiving an annuity under this section by reason of service as a judge of the court and who is appointed to a position in the Federal Government shall, during the period of such person's service in such position, be entitled to receive only the annuity under this section or the pay for that position, whichever is higher.

"(g) ELECTION OF JUDICIAL RETIREMENT BENEFITS.—(1) A person who is receiving an annuity under this section by reason of service as a judge of the court and who later is appointed as a justice or judge of the United States to hold office during good behavior and who retires from that office, or from regular active service in that office, shall be paid either (A) the annuity under this section, or (B) the annuity or salary to which he is entitled by reason of his service as such a justice or judge of the United States, as determined by an election by that person at the time of his retirement from the office, or from regular active service in the office, of justice or judge of the United States. Such an election may not be revoked.

"(2) An election by a person to be paid an annuity or salary pursuant to paragraph (1)(B) terminates (A) any election previously made by such person to provide a survivor annuity pursuant to subsection (d), and (B) any right of any other individual to receive a survivor annuity pursuant to subsection (d) on the basis of the service of that person.

"(h) SOURCE OF PAYMENT OF ANNUITIES.—Annuities and survivor annuities paid under this section shall be paid out of the Department of Defense Military Retirement Fund.

"§ 946. Art. 146. Code committee

"(a) ANNUAL SURVEY.—A committee shall meet at least annually and shall make an annual comprehensive survey of the operation of this chapter.

"(b) COMPOSITION OF COMMITTEE.—The committee shall consist of—

"(1) the judges of the United States Court of Military Appeals;

"(2) the Judge Advocates General of the Army, Navy, and Air Force, the Chief Counsel of the Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps; and

"(3) two members of the public appointed by the Secretary of Defense.

"(c) REPORTS.—(1) After each such survey, the committee shall submit a report—

"(A) to the Committees on Armed Services of the Senate and House of Representatives; and

"(B) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Transportation.

"(2) Each report under paragraph (1) shall include the following:

"(A) Information on the number and status of pending cases.

"(B) Any recommendation of the committee relating to—

"(i) uniformity of policies as to sentences;

"(ii) amendments to this chapter; and

"(iii) any other matter the committee considers appropriate.

"(d) QUALIFICATIONS AND TERMS OF APPOINTED MEMBERS.—Each member of the committee appointed by the Secretary of Defense under subsection (b)(3) shall be a recognized authority in military justice or criminal law. Each such member shall be appointed for a term of three years.

"(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App. I) shall not apply to the committee.".

10 USC 942 note.

(d) TRANSITION FROM THREE-JUDGE COURT TO FIVE-JUDGE COURT.—(1) Effective during the period before October 1, 1990—

(A) the number of members of the United States Court of Military Appeals shall (notwithstanding subsection (a) of section 942 of title 10, United States Code, as enacted by subsection (c)) be three; and

(B) the maximum number of members of the court who may be appointed from the same political party shall (notwithstanding subsection (b)(3) of section 942) be two.

(2) In the application of paragraph (2) of section 942(b) of title 10, United States Code (as enacted by subsection (c)) to the judges who are first appointed to the two new positions of the court created as of October 1, 1990—

(A) with respect to one such judge (as designated by the President at the time of appointment), the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the seventh anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being seven; and

(B) with respect to the other such judge (as designated by the President at the time of appointment), the anniversary referred to in subparagraph (A) of that paragraph shall be treated as being the thirteenth anniversary and the number of years referred to in subparagraph (B) of that paragraph shall be treated as being thirteen.

10 USC 942 note.

(e) TRANSITION RULES RELATING TO RETIREMENT OF NEW JUDGES.—(1) Except as otherwise provided in paragraphs (2) and (3), each judge to whom subsection (d)(2) applies shall be eligible for an annuity as provided in section 945 of title 10, United States Code, as enacted by subsection (c).

(2) The annuity of a judge referred to in paragraph (1) is computed under subsection (b) of such section 945 only if the judge—

(A) completes the term of service for which he is first appointed;

(B) is reappointed as a judge of the United States Court of Military Appeals at any time after the completion of such term of service;

(C) is separated from civilian service in the Federal Government after completing a total of 15 years as a judge of such court; and

(D) elects to receive an annuity under such section in accordance with subsection (a)(2) of such section.

(3) In the case of a judge referred to in paragraph (1) who is separated from civilian service after completing the term of service for which he is first appointed as a judge of the United States Court of Military Appeals and before completing a total of 15 years as a judge of such court, the annuity of such judge (if elected in accordance with section 945(a)(2) of title 10, United States Code) shall be 1/15 of the amount computed under subsection (b) of such section times the number of years (including any fraction thereof) of such judge's service as a judge of the court.

10 USC 942 note.

(f) APPLICABILITY OF AMENDED RETIREMENT PROVISIONS.—Except as otherwise provided in subsections (c) and (d), section 945 of title 10, United States Code, as enacted by subsection (c), applies with respect to judges of the United States Court of Military Appeals whose terms of service on such court end after September 28, 1988, and to the survivors of such judges.

10 USC 942 note.

(g) TERMS OF CURRENT JUDGES.—Section 942(b) of title 10, United States Code, as enacted by subsection (c), shall not apply to the term of office of a judge of the United States Court of Military Appeals serving on such court on the date of the enactment of this Act. The term of office of such a judge shall expire on the later of (A) the date the term of such judge would have expired under section 867(a)(1) of title 10, United States Code, as in effect on the day before such date of enactment, or (B) September 30 of the year in which the term of such judge would have expired under such section 867(a)(1).

10 USC 942 note. (h) CIVIL SERVICE STATUS OF CURRENT EMPLOYEES.—Section 943(c) of title 10, United States Code, as enacted by subsection (c), shall not be applied to change the civil service status of any attorney who is an employee of the United States Court of Military Appeals on the day before the date of the enactment of this Act.

(i) TERMINATION OF AUTHORITY RELATING TO SERVICE OF ARTICLE III JUDGES AFTER 5 YEARS.—The authority of the Chief Justice of the United States under section 942(f) of title 10, United States Code, as enacted by subsection (c), shall terminate on September 30, 1995.

SEC. 1302. APPELLATE REVIEW OF ARTICLE 69 ACTIONS

(a) REVIEW.—Section 869 (article 69) of title 10, United States Code, is amended—

(1) in subsection (a), by striking out the third sentence; and

(2) by adding at the end the following:

"(d) A Court of Military Review may review, under section 866 of this title (article 66)—

"(1) any court-martial case which (A) is subject to action by the Judge Advocate General under this section, and (B) is sent to the Court of Military Review by order of the Judge Advocate General; and

"(2) any action taken by the Judge Advocate General under this section in such case.

"(e) Notwithstanding section 866 of this title (article 66), in any case reviewed by a Court of Military Review under this section, the Court may take action only with respect to matters of law.".

10 USC 869 note. (b) EFFECTIVE DATE.—Subsection (e) of section 869 of title 10, United States Code, as added by subsection (a), shall apply with respect to cases in which a finding of guilty is adjudged by a general court-martial after the date of the enactment of this Act.

SEC. 1303. INVESTIGATION OF JUDICIAL MISCONDUCT

Subchapter I of chapter 47 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 806a. Art. 6a. Investigation and disposition of matters pertaining to the fitness of military judges

"(a) The President shall prescribe procedures for the investigation and disposition of charges, allegations, or information pertaining to the fitness of a military judge or military appellate judge to perform the duties of the judge's position. To the extent practicable, the procedures shall be uniform for all armed forces.

"(b) The President shall transmit a copy of the procedures prescribed pursuant to this section to the Committees on Armed Services of the Senate and House of Representatives.".

SEC. 1304. TECHNICAL AND CONFORMING AMENDMENTS

(a) CLERICAL AMENDMENTS.—(1) The table of subchapters at the beginning of chapter 47 of title 10, United States Code, is amended by adding at the end the following new item:

"XII. Court of Military Appeals .... 941 141".

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"806a. 6a. Investigation and disposition of matters pertaining to the fitness of military judges.".

(b) CONFORMING AMENDMENTS.—(1) Section 869(a) (article 69(a)) of title 10, United States Code, is amended by striking out "section 867(b)(2) of this title (article 67(b)(2))" in the third sentence and inserting in lieu thereof "section 867(a)(2) of this title (article 67(a)(2))".

(2) Section 8337(a) of title 5, United States Code, is amended by striking out "section 867(a)(2)" in the fourth sentence and inserting in lieu thereof "section 942(c)".

(3) Section 1259 of title 28, United States Code, is amended by striking out "section 867(b)(1)", "section 867(b)(2)", and "section 867(b)(3)" and inserting in lieu thereof "section 867(a)(1)", "section 867(a)(2)", and "section 867(a)(3)", respectively.

TITLE XIV—MILITARY SURVIVOR BENEFIT PLAN

Military Survivor Benefits Improvement Act of 1989.
10 USC 1447 note.

SEC. 1401. SHORT TITLE

This title may be cited as the "Military Survivor Benefits Improvement Act of 1989".

SEC. 1402. REVISED PREMIUM COMPUTATION FOR SURVIVOR BENEFIT PLAN ANNUITIES

(a) REVISION IN RETIRED PAY REDUCTION.—Subsection (a) of section 1452 of title 10, United States Code, is amended by striking out the matter preceding paragraph (2) and inserting in lieu thereof the following:

"(a) SPOUSE AND FORMER SPOUSE ANNUITIES.—

"(1) REQUIRED REDUCTION IN RETIRED PAY.—Except as provided in subsection (b), the retired pay of a participant in the Plan who is providing spouse coverage (as described in paragraph (5)) shall be reduced as follows:

"(A) STANDARD ANNUITY.—If the annuity coverage being provided is a standard annuity, the reduction shall be as follows:

"(i) DISABILITY AND NONREGULAR SERVICE RETIREES.—In the case of a person who is entitled to retired pay under chapter 61 or chapter 67 of this title, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

"(ii) MEMBERS AS OF ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first became a member of a uniformed service before March 1, 1990, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

"(iii) NEW ENTRANTS AFTER ENACTMENT OF FLAT-RATE REDUCTION.—In the case of a person who first becomes a member of a uniformed service on or after March 1, 1990, and who is entitled to retired pay under a provision of law other than chapter 61 or chapter 67 of this title, the reduction shall be in an amount equal to 6½ percent of the base amount.

"(iv) ALTERNATIVE REDUCTION AMOUNTS.—For purposes of clauses (i) and (ii), the alternative reduction amounts are the following:

"(I) An amount equal to 6½ percent of the base amount.

"(II) An amount equal to 2½ percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

"(B) RESERVE-COMPONENT ANNUITY.—If the annuity coverage being provided is a reserve-component annuity, the reduction shall be in whichever of the following amounts is more favorable to that person:

"(i) An amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

"(ii) An amount equal to 2½ percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.".

(b) PERSONS PROVIDING SPOUSE COVERAGE.—Such subsection is further amended by adding at the end the following new paragraph:

"(5) For the purposes of paragraph (1), a participant in the Plan who is providing spouse coverage is a participant who—

"(A) has (i) a spouse or former spouse, or (ii) a spouse or former spouse and a dependent child; and

"(B) has not elected to provide an annuity to a person designated by him under section 1448(b)(1) of this title or, having made such an election, has changed his election in favor of his spouse under section 1450(f) of this title.".

(c) CONFORMING AMENDMENT.—Subsection (a)(4) of such section is amended by striking out "amount under paragraph (1)(A)" in subparagraphs (A) and (B) and inserting in lieu thereof "amounts under paragraph (1)".

10 USC 1452 note.

(d) RECOMPUTATION OF SBP PREMIUM FOR CURRENT PARTICIPANTS.—

(1) RECOMPUTATION.—The Secretary concerned shall recompute the SBP premium of persons described in paragraph (2). Any such recomputation shall take effect on March 1, 1990.

(2) PERSONS COVERED.—A person referred to in paragraph (1) as described in this paragraph is a person who on March 1, 1990—

(A) is entitled to retired pay;

(B) is providing spouse coverage (as described in paragraph (5) of section 1452 of title 10, United States Code, as added by subsection (b)); and

(C) is subject to an SBP premium in excess of 6½ percent of the base amount of that person under the Survivor Benefit Plan.

(3) AMOUNT OF RECOMPUTED PREMIUM.—The amount of an SBP premium recomputed under this subsection shall be 6½ percent of the base amount under the Survivor Benefit Plan of the person whose premium is recomputed.

(4) SBP PREMIUM DEFINED.—For purposes of this subsection, the term "SBP premium" means a reduction in retired pay under section 1452 of title 10, United States Code.

SEC. 1403. CORRECTION OF ANNUITY COMPUTATION FOR SURVIVORS OF CERTAIN RETIREMENT-ELIGIBLE OFFICERS DYING WHILE ON ACTIVE DUTY

(a) ANNUITY COMPUTATION BASED ON FINAL BASIC PAY.—Paragraph (3) of section 1451(c) of title 10, United States Code, is amended to read as follows:

"(3) In the case of an annuity provided by reason of the service of a member described in section 1448(d)(1)(B) or 1448(d)(1)(C) of this title who first became a member of a uniformed service before September 8, 1980, the retired pay to which the member would have been entitled when he died shall be determined for purposes of paragraph (1) based upon the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death, unless (as determined by the Secretary concerned) the member would have been entitled to be retired in a higher grade.".

(b) ADJUSTMENT OF ANNUITIES ALREADY IN EFFECT.—

10 USC 1451 note.

(1) RECOMPUTATION.—The Secretary concerned shall recompute the annuity of any person who on the effective date specified in subsection (d) is entitled to an annuity under the Survivor Benefit Plan by reason of eligibility described in section 1448(d)(1)(B) or 1448(d)(1)(C) of title 10, United States Code, and who is further described in subsection (c).

(2) AMOUNT OF RECOMPUTED ANNUITIES.—The amount of the annuity as so recomputed shall be the amount that would be in effect for that annuity on the effective date specified in subsection (d) if the annuity had originally been computed subject to the provisions of paragraph (3) of section 1451(c) of title 10, United States Code, as amended by subsection (a).

(c) PERSONS ELIGIBLE FOR RECOMPUTATION.—A person is eligible to have an annuity under the Survivor Benefit Plan recomputed under subsection (b) if—

(1) the annuity is based upon the service of a member of the uniformed services who died on active duty during the period beginning on September 21, 1972, and ending on the effective date specified in subsection (d); and

(2) the retired pay of that member for the purposes of determining the amount of the annuity under the Survivor Benefit Plan was computed using a rate of basic pay lower than the rate of basic pay in effect at the time of death for the grade in which the member was serving at the time of death.

(d) EFFECTIVE DATE.—An annuity recomputed under subsection (b) shall take effect as so recomputed on March 1, 1990.

SEC. 1404. PROGRAM TO PROVIDE SUPPLEMENTAL SPOUSE ANNUITY FOR MILITARY RETIREES

Effective date.

(a) ESTABLISHMENT OF PROGRAM.—(1) Effective on October 1, 1991, chapter 73 of title 10, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—SUPPLEMENTAL SURVIVOR BENEFIT PLAN

"Sec.
"1456. Supplemental spouse coverage: establishment of plan; definitions.
"1457. Supplemental spouse coverage: payment of annuity; amount.
"1458. Supplemental spouse coverage: eligible participants; elections of coverage.
"1459. Former spouse coverage: special rules.

"1460. Supplemental spouse coverage: reductions in retired pay.
"1460a. Incorporation of certain administrative provisions.
"1460b. Regulations.

"§ 1456. Supplemental spouse coverage: establishment of plan; definitions

"(a) ESTABLISHMENT OF SUPPLEMENTAL SURVIVOR BENEFIT PLAN.—

"(1) PLAN.—The Secretary of Defense shall carry out a program in accordance with this subchapter to enable participants in the Survivor Benefit Plan who are providing coverage for a spouse or former spouse beneficiary under that Plan to also provide a supplemental annuity for that spouse or former spouse beginning when the participant dies or when the spouse or former spouse becomes 62 years of age, whichever is later, in order to offset the effects of the two-tier annuity computation under the Survivor Benefit Plan.

"(2) NAME OF PLAN.—The program under this subchapter shall be known as the Supplemental Survivor Benefit Plan.

"(b) DEFINITIONS.—

"(1) INCORPORATION OF DEFINITIONS APPLICABLE TO SURVIVOR BENEFIT PLAN.—The definitions in section 1447 of this title apply in this subchapter.

"(2) SUPPLEMENTAL SPOUSE ANNUITY DEFINED.—In this subchapter, the term 'supplemental spouse annuity' means an annuity provided to a spouse or former spouse under this subchapter.

"§ 1457. Supplemental spouse coverage: payment of annuity; amount

"(a) COMMENCEMENT OF ANNUITY.—A supplemental spouse annuity commences on the later of—

"(1) the day on which an annuity under the Survivor Benefit Plan becomes payable to the beneficiary; or

"(2) the first day of the first month after the month in which the beneficiary becomes 62 years of age.

"(b) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING STANDARD ANNUITY UNDER SBP.—In the case of a person providing a standard annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to the beneficiary under this subchapter shall be the amount equal to 20 percent of the base amount under the Survivor Benefit Plan of the person providing the annuity. The annuity shall be computed as of the date of the death of the person providing the annuity, notwithstanding that the annuity is not payable at that time by reason of subsection (a).

"(c) AMOUNT OF ANNUITY FOR BENEFICIARY OF PERSON PROVIDING RESERVE-COMPONENT ANNUITY UNDER SBP.—In the case of a person providing a reserve-component annuity for a spouse or former spouse beneficiary under the Survivor Benefit Plan and providing a supplemental spouse annuity for that beneficiary under this subchapter, the monthly annuity payable to that beneficiary under this subchapter shall be determined as follows:

"(1) BENEFICIARY INITIALLY 62 YEARS OF AGE OR OLDER.—If the beneficiary is 62 years of age or older when the beneficiary becomes entitled to the reserve-component annuity under the

Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity is the difference between—

"(A) the amount of the reserve-component annuity under the Survivor Benefit Plan to which the beneficiary would be entitled if that beneficiary were under 62 years of age (as computed under section 1451(a)(2)(A) of this title); and

"(B) the amount of the reserve-component annuity to which the beneficiary is entitled (as computed under section 1451(a)(2)(B) of this title).

"(2) BENEFICIARY INITIALLY UNDER 62 YEARS OF AGE.—If the beneficiary is under 62 years of age when the beneficiary becomes entitled to the reserve-component annuity under the Survivor Benefit Plan, the monthly amount of the supplemental spouse annuity of that beneficiary (commencing on the date specified in subsection (a)(2)) is the amount by which the beneficiary's annuity under the Survivor Benefit Plan is reduced (on the same day) under section 1451(d) of this title.

"(3) EXCLUSION OF DIC OFFSET.—Computations under paragraphs (1) and (2) shall be made without regard to any reduction required under section 1450(c) of this title (or any other provision of law) with respect to the receipt of dependency and indemnity compensation under section 411 of title 38.

"(d) ADJUSTMENTS IN ANNUITIES.—

"(1) PERIODIC ADJUSTMENTS (COLAS).—Whenever annuities under the Survivor Benefit Plan are increased under section 1451(g)(1) of this title (or any other provision of law) or recomputed under section 1451(i) of this title, each annuity under this subchapter shall be increased or recomputed at the same time. The increase shall, in the case of any such annuity, be by the same percent as the percent by which the annuity of that beneficiary is increased or recomputed under the Survivor Benefit Plan.

"(2) ROUNDING DOWN.—The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(e) TERMINATION OF ANNUITY.—A supplemental spouse annuity terminates effective as of the first day of the month in which the beneficiary dies or otherwise becomes ineligible to continue to receive an annuity under the Survivor Benefit Plan.

"§ 1458. Supplemental spouse coverage: eligible participants; elections of coverage

"(a) COVERAGE.—

"(1) IN GENERAL.—A person who provides an annuity for a spouse or former spouse under the Survivor Benefit Plan may elect in accordance with this section to provide a supplemental spouse annuity for that spouse or former spouse.

"(2) COVERAGE CONTINGENT ON CONCURRENT SBP COVERAGE.—When a person providing a supplemental spouse annuity under this subchapter ceases to be a participant under the Survivor Benefit Plan, that person's coverage under this subchapter automatically terminates.

"(3) ELECTIONS TO BE VOLUNTARY.—A person may not be ordered or required to elect (or to enter into an agreement to elect) to provide a spouse or former spouse with a supplemental spouse annuity under this subchapter. Except as provided in section 1459(b) of this title, in no case shall a person be deemed to have made an election to provide a supplemental annuity for a spouse or former spouse of such person.

"(b) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under this section if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of this title. However, such a person may waive the right to have that annuity computed under section 1451(e) of this title. Any such election is irrevocable. A person making such a waiver may make an election under this section as in the case of any other participant in the Survivor Benefit Plan.

"(c) ELECTION OF SUPPLEMENTAL SPOUSE ANNUITY BEFORE BECOMING A PARTICIPANT IN SBP.—

"(1) IN GENERAL.—A person anticipating becoming a participant in the Survivor Benefit Plan who has a spouse or former spouse may elect to provide a supplemental spouse annuity under this subchapter for that spouse or former spouse.

"(2) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) must be made before the day on which the person making the election first becomes a participant in the Survivor Benefit Plan; and

"(B) shall be made in the same manner as an election under section 1448 of this title that is available to that person at the same time.

"(3) REQUIREMENT OF SPOUSE ANNUITY UNDER SBP.—If upon becoming a participant in the Survivor Benefit Plan under section 1448 of this title the person is not providing an annuity for the person's spouse or former spouse, an election under this section to provide a supplemental spouse annuity shall be void.

"(4) SPECIAL RULE FOR RCSBP PARTICIPANTS.—For the purposes of this subsection, a person providing a reserve-component annuity under the Survivor Benefit Plan shall not be considered to have become a participant in that Plan until the end of the 90-day period referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(d) ELECTION OF FORMER SPOUSE AFTER BECOMING ELIGIBLE FOR SURVIVOR BENEFIT PLAN.—

"(1) ELECTION OF COVERAGE.—A person who elects under section 1448(b)(3) of this title to provide coverage under the Survivor Benefit Plan for a former spouse may elect to provide a supplemental spouse annuity for that former spouse. Any such election must be signed by the person and received by the Secretary concerned within one year after the date of the decree of divorce, dissolution, or annulment.

"(2) EFFECTIVE DATE OF ELECTION.—An election under paragraph (1) is effective as of the same day as the election under section 1448(b)(3) of this title.

"(e) NOTICE TO SPOUSE OF FORMER SPOUSE COVERAGE.—If a married person who is eligible to provide an annuity under the Survivor Benefit Plan elects to provide an annuity under that Plan for a former spouse (or for a former spouse and dependent child) and elects under this section to provide a supplemental spouse annuity for that former spouse, the notification to the person's spouse under section 1448(a)(3)(E) or 1448(b)(3)(D) of this title shall include notice of the election under this section.

"(f) IRREVOCABILITY OF ELECTIONS.—

"(1) STANDARD ANNUITY.—An election under subsection (c) to provide a supplemental spouse annuity by a person providing a standard annuity under the Survivor Benefit Plan is irrevocable if not revoked on the day before the date on which the person first becomes a participant in that Plan.

"(2) RESERVE-COMPONENT ANNUITY.—An election under subsection (c) to provide a supplemental spouse annuity by a person providing a reserve-component annuity under the Survivor Benefit Plan is irrevocable if not revoked before the end of the 90-day period with respect to that person referred to in clause (iii) of section 1448(a)(2)(B) of this title.

"(3) FORMER SPOUSE ELECTIONS.—An election under subsection (d) may not be revoked except in accordance with subsection (h).

"(g) REMARRIAGE AFTER RETIREMENT.—

"(1) ELECTION UPON REMARRIAGE.—A person—

"(A) who is a participant in the Survivor Benefit Plan and is providing coverage under that Plan for a spouse (or a spouse and child) but is not a participant in the Supplemental Survivor Benefit Plan;

"(B) who does not have an eligible spouse beneficiary under that Plan; and

"(C) who remarries,

may (subject to paragraph (2)) elect to provide a supplemental spouse annuity under this subchapter for the person's spouse.

"(2) LIMITATIONS ON ELECTION.—A person may not make an election under paragraph (1) if the person elects under section 1448(a)(6)(A) of this title not to provide coverage under the Survivor Benefit Plan for the person's spouse.

"(3) CONDITIONS ON ELECTION.—An election under paragraph (1)—

"(A) is irrevocable;

"(B) shall be made within one year after the remarriage; and

"(C) shall be made in such form and manner as may be prescribed in regulations under section 1460b of this title.

"(h) CHANGE OF FORMER SPOUSE BENEFICIARY TO SPOUSE OR CHILD BENEFICIARY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter elects under section 1450(f)(1) of this title to change the beneficiary of the annuity under the Survivor Benefit Plan in order to provide an annuity under that Plan to that person's spouse or to a dependent child—

"(1) the beneficiary under the supplemental spouse annuity shall be deemed to be changed to that spouse also, if the change under section 1450(f)(1) was to provide the annuity for the person's spouse; and

"(2) participation in the supplemental spouse annuity program shall be terminated, if the change under section 1450(f)(1) of this title was to provide the annuity for a dependent child.

"(i) REINSTATEMENT OF DISCONTINUED ANNUITY UPON REINSTATEMENT OF SBP ANNUITY.—If a person who is providing an annuity for a former spouse under the Survivor Benefit Plan and a supplemental spouse annuity for that former spouse under this subchapter discontinues participation in the Survivor Benefit Plan under any provision of law and subsequently resumes participation in that Plan under any provision of law, the participation of that person in the Supplemental Survivor Benefit Plan under this chapter shall be reinstated effective on the day on which participation in the Survivor Benefit Plan resumes.

"§ 1459. Former spouse coverage: special rules

"(a) Disclosure of Voluntary Written Agreement With Former Spouse.—A person who elects under section 1458 of this title to provide a supplemental spouse annuity for a former spouse shall, at the time of making the election, provide the Secretary concerned with a written statement (in a form to be prescribed by that Secretary and signed by such person and former spouse) setting forth whether the election is being made pursuant to a written agreement previously entered into voluntarily by such person as a part of or incident to a proceeding of divorce, dissolution, or annulment and (if so) whether such voluntary written agreement has been incorporated in, or ratified or approved by, a court order.

"(b) Enforcement of Voluntary Written Agreements Incident to Divorce, Etc.—

"(1) Elections deemed to have been made.—If a person who is eligible to elect under section 1458 of this title to provide a supplemental spouse annuity for a former spouse voluntarily enters, incident to a proceeding of divorce, dissolution, or annulment, into a written agreement to elect to provide a supplemental annuity for a former spouse and that agreement is incorporated in or ratified or approved by a court order or is filed with the court of appropriate jurisdiction in accordance with applicable State law, and such person then fails or refuses to make the election as set forth in the voluntary agreement, such person shall be deemed to have made the election if the Secretary concerned—

"(A) receives from the former spouse concerned a written request, in such manner as the Secretary shall prescribe, requesting that the election be deemed to have been made; and

"(B) receives (i) a copy of the court order, regular on its face, which incorporates, ratifies, or approves the written agreement of such person, or (ii) a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable State law.

"(2) Time limit for request to Secretary concerned.—An election may not be deemed to have been made under paragraph (1) in the case of any person unless the Secretary concerned receives a request from the former spouse within one year after the date of the court order or filing involved.

"(3) Effective date of deemed election.—An election deemed to have been made under paragraph (1) shall become effective on the first day of the first month which begins after the date of the court order or filing involved.

"§ 1460. Supplemental spouse coverage: reductions in retired pay

"(a) Reduction Required.—The retired pay of a person who elects to provide a supplemental spouse annuity shall be reduced each month as required under regulations prescribed under subsection (b).

"(b) REGULATIONS DETERMINING AMOUNT OF REDUCTION.—Regulations for the purposes of subsection (a) shall be prescribed by the Secretary of Defense. Those regulations shall be based upon assumptions used by the Department of Defense Retirement Board of Actuaries in the valuation of military retirement and survivor benefit programs under chapter 74 of this title (including assumptions relating to mortality, interest rates, and inflation) and shall ensure the following:

"(1) That reductions in retired pay under this section are made in amounts sufficient to provide that the Supplemental Survivor Benefit Plan operates on an actuarially neutral basis.

"(2) That such reductions are stated, with respect to the base amount (under the Survivor Benefit Plan) of any person, as a constant percentage of that base amount.

"(3) That the amounts of such reductions in retired pay of persons participating in the Supplemental Survivor Benefit Plan (stated as a percentage of base amount)—

"(A) are based on the age of the participant at the time participation in that Plan is first effective under this subchapter; and

"(B) are not determined by any other demographic differentiation among participants in the Plan.

"(4) That such reductions are otherwise determined in accordance with generally accepted actuarial principles and practices.

"(c) SUSPENSION OF REDUCTION WHEN THERE IS NO SPOUSE BENEFICIARY.—A reduction in retired pay under this section shall not be made in the case of any person during any month in which there is no eligible spouse or former spouse beneficiary.

"(d) ADJUSTMENTS IN AMOUNT OF REDUCTION.—Whenever the amount of the reduction in retired pay of a participant in the Survivor Benefit Plan is increased under section 1452(h) of this title or recomputed under section 1452(i) of this title, the amount of the reduction in that retired pay under this section shall be increased or recomputed, as the case may be, at the same time and in the same manner as that increase or recomputation.

"(e) ADMINISTRATIVE PROVISIONS.—The provisions of subsections (d) and (f) of section 1452 of this title apply with respect to the participation of a person in the Supplemental Survivor Benefit Plan in the same manner that those provisions apply under the Survivor Benefit Plan.

"§ 1460a. Incorporation of certain administrative provisions

"(a) APPLICABILITY OF CERTAIN PROVISIONS OF SBP LAW.—The provisions of section 1449, 1452(g), 1453, and 1454 of this title are applicable to a person eligible to make an election, and to an election, under this subchapter in the same manner as if made under subchapter II.

"(b) OTHER APPLICABLE PROVISIONS.—Except to the extent otherwise provided in regulations prescribed under section 1460b of this title, the provisions of subsections (h), (i), and (l) of section 1450 of this title apply to supplemental spouse annuities in the same manner that those provisions apply to annuities under the Survivor Benefit Plan.

"§ 1460b. Regulations

"The President shall prescribe regulations to carry out this subchapter. Those regulations shall, so far as practicable, be uniform President of U.S.

for the uniformed services and shall, so far as practicable, incorporate provisions of the regulations in effect under section 1455 of this title.".

Effective date.

(2) Effective on October 1, 1991, the table of subchapters at the beginning of chapter 73 of such title is amended by adding at the end the following new item:

"III. Supplemental Spouse Coverage for Survivor Benefit Plan Participants.... 1456".

(b) CONFORMING AMENDMENTS.—(1) Section 1331(d) of title 10, United States Code, is amended by inserting "and the Supplemental Survivor Benefit Plan established under subchapter III of that chapter," after "this title".

(2) Section 3101(c)(1) of title 38, United States Code, is amended by striking out "of subchapter I or II".

Effective date.
10 USC 1331 note.

(3) The amendments made by paragraphs (1) and (2) shall take effect on October 1, 1991.

10 USC 1448 note.

SEC. 1405. OPEN ENROLLMENT PERIOD

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (f).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 1404.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) ELECTION TO INCREASE COVERAGE UNDER SBP.—A person who on the day before the first day of the open enrollment period is a participant in the Survivor Benefit Plan but is not participating at the maximum base amount or is providing coverage under the Plan for a dependent child and not for the person's spouse or former spouse may, during the open enrollment period elect to—

(1) participate in the Plan at a higher base amount (not in excess of the participant's retired pay); or

(2) provide annuity coverage under the Plan for the person's spouse or former spouse at a base amount not less than the base amount provided for the dependent child.

(c) ELECTION FOR CURRENT SBP PARTICIPANTS TO PARTICIPATE IN SUPPLEMENTAL SBP.—

(1) ELECTION.—A person who is eligible to make an election under this paragraph may elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan established under subchapter III of chapter 73 of title 10, United States Code, as added by section 1404.

(2) PERSONS ELIGIBLE.—Except as provided in paragraph (3), a person is eligible to make an election under paragraph (1) if on the day before the first day of the open enrollment period the person is a participant in the Survivor Benefit Plan and under that Plan is providing annuity coverage for the person's spouse or a former spouse.

(3) LIMITATION ON ELIGIBILITY FOR CERTAIN SBP PARTICIPANTS NOT AFFECTED BY TWO-TIER ANNUITY COMPUTATION.—A person is not eligible to make an election under paragraph (1) if (as determined by the Secretary concerned) the annuity of a spouse or former spouse beneficiary of that person under the Survivor Benefit Plan will be computed under section 1451(e) of title 10, United States Code. However, such a person may during the open enrollment period waive the right to have that annuity computed under such section. Any such election is irrevocable. A person making such a waiver may make an election under paragraph (1) as in the case of any other participant in the Survivor Benefit Plan.

(d) MANNER OF MAKING ELECTIONS.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(e) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(f) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on October 1, 1991.

(g) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(h) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(i) REPORT CONCERNING OPEN SEASON.—Not later than June 1, 1990, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the open season authorized by this section for the Survivor Benefit Plan. The report shall include—

(1) a description of the Secretary's plans for implementation of the open season;

(2) the Secretary's estimates of the costs associated with the open season, including any anticipated effect of the open season on the actuarial status of the Department of Defense Military Retirement Fund; and

(3) any recommendation by the Secretary for further legislative action.

10 USC 1448 note.

SEC. 1406. DEFINITIONS

For the purpose of this title:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(3) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

SEC. 1407. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS

(a) GENERAL AMENDMENTS.—Subchapter II of chapter 73 of title 10, United States Code, is amended as follows:

(1) Section 1447 is amended—

(A) in paragraph (5), by striking out "this clause" both places it appears and inserting in lieu thereof "this paragraph";

(B) in paragraph (11), by inserting "paid under section 6330 of this title" after "retainer pay"; and

(C) by adding at the end the following new paragraph:

"(14) The term 'reserve-component retired pay' means retired pay under chapter 67 of this title.".

(2) Sections 1447(2)(B), 1447(2)(C)(ii), 1448(a)(1)(B), 1448(a)(2)(B), 1448(f)(1)(A), 1448(f)(1)(B), and 1450(l)(1) are amended by striking out "retired pay under chapter 67 of this title" and inserting in lieu thereof "reserve-component retired pay".

(3) Sections 1447(2)(C)(i), 1447(3), 1447(4), 1448(a)(4)(A), 1449, and 1450(l)(2) are amended by striking out "or retainer".

(4) Section 1450(f)(3)(B) is amended—

(A) by striking out "before October 1, 1985, or"; and

(B) by striking out ", whichever is later".

(5) Section 1451(c)(4) is amended by inserting "by reason of the service of a person who first became a member of a uniformed service before September 8, 1980" after "of this title".

(6) Section 1451(e)(1) is amended by striking out "plan" in the matter preceding subparagraph (A) and inserting in lieu thereof "Plan".

(7) Section 1451(e)(1)(B) is amended—

(A) by striking out "is" each place it appears and inserting in lieu thereof "was";

(B) by striking out "has" in clause (ii) and inserting in lieu thereof "had"; and

(C) by striking out "would be" in clause (iii) and inserting in lieu thereof "would have been".

(8) Section 1451(e)(2) is amended by striking out "(as the base amount is adjusted from time to time under section 1401a of this title)" in subparagraphs (A) and (B).

(9) Section 1452(h) is amended—

(A) by inserting "(or any other provision of law)" after "of this title" the first place it appears; and

(B) by striking out "increased under section 1401a of this title" and inserting in lieu thereof "so increased".

(10)(A) The heading of section 1454 is amended to read as follows:

"§ 1454. Correction of administrative errors".

(B) The item relating to that section in the table of sections at the beginning of that subchapter is amended to read as follows:

"1454. Correction of administrative errors.".

(b) Parity of Treatment of Former Spouses and Surviving Spouses.—(1) Section 1451(e) of title 10, United States Code, is amended by inserting "or former spouse" in paragraphs (3)(A) and (4)(A) after "widow or widower".

10 USC 1451 note.

(2) The amendments made by paragraph (1) shall apply only with respect to the computation of an annuity for a person who becomes a former spouse under a divorce that becomes final after the date of the enactment of this Act.

TITLE XV—MILITARY CHILD CARE

Military Child Care Act of 1989.
10 USC 113 note.

SEC. 1501. SHORT TITLE; DEFINITIONS

(a) Short Title.—This title may be cited as the "Military Child Care Act of 1989".

(b) Definitions.—For purposes of this title:

(1) The term "military child development center" means a facility on a military installation (or on property under the jurisdiction of the commander of a military installation) at which child care services are provided for members of the Armed Forces or any other facility at which such child care services are provided that is operated by the Secretary of a military department.

(2) The term "family home day care" means home-based child care services that are provided for members of the Armed Forces by an individual who (A) is certified by the Secretary of the military department concerned as qualified to provide those services, and (B) provides those services on a regular basis for compensation.

(3) The term "child care employee" means a civilian employee of the Department of Defense who is employed to work in a military child development center (regardless of whether the employee is paid from appropriated funds or nonappropriated funds).

(4) The term "child care fee receipts" means those nonappropriated funds that are derived from fees paid by members of the Armed Forces for child care services provided at military child development centers.

SEC. 1502. FUNDING FOR MILITARY CHILD CARE FOR FISCAL YEAR 1990

(a) Fiscal Year 1990 Funding.—(1) It is the policy of Congress that the amount of appropriated funds available during fiscal year 1990 for operating expenses for military child development centers shall not be less than the amount of child care fee receipts that are estimated to be received by the Department of Defense during that fiscal year. Of the amount authorized to be appropriated for the Department of Defense for fiscal year 1990, $102,000,000 shall be available for operating expenses for military child development centers.

(2) In addition to the amount referred to in paragraph (1), $26,000,000 shall be available for child care and child-related services of the Department other than military child development centers.

(3) In using the funds referred to in paragraph (1), the Secretary shall give priority to—

(A) increasing the number of child care employees who are directly involved in providing child care for members of the Armed Forces; and

(B) expanding the availability of child care for members of the Armed Forces.

(b) Funds Derived From Parent Fees To Be Used for Employee Compensation and Other Child Care Services.—(1) Except as provided in paragraph (2), child care fee receipts may be used during fiscal year 1990 only for compensation of child care employees who are directly involved in providing child care.

(2) If the Secretary of Defense determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Secretary may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—

(A) first, for the purchase of consumable or disposable items for military child development centers; and

(B) if the requirements of such centers for consumable or disposable items for fiscal year 1990 have been met, for other expenses of those centers.

(c) Report.—(1) Not later than December 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on how the Secretary intends to use the funds referred to in subsection (a), including how the Secretary intends to achieve the priorities specified in paragraph (3) of that subsection.

(2) If at the time such report is submitted the Secretary proposes to use the authority provided by subsection (b)(2), the Secretary shall include in the report under paragraph (1) a description of the use proposed to be made of that authority and a statement of the reasons why the Secretary determined that compliance with the limitation in subsection (b)(1) would result in an uneconomical and inefficient use of child care fee receipts, together with supporting cost information and other information justifying the determination.

(3) If the Secretary uses such authority after December 31, 1989, the Secretary shall promptly inform the committees of the use of the authority and of the reasons for its use.

SEC. 1503. CHILD CARE EMPLOYEES

Regulations.

(a) REQUIRED TRAINING.—(1) The Secretary of Defense shall establish, and prescribe regulations to implement, a training program for child care employees. Those regulations shall apply uniformly among the military departments. Subject to paragraph (2), satisfactory completion of the training program shall be a condition of employment of any person as a child care employee.

(2) Under those regulations, the Secretary shall require that each child care employee complete the training program not later than six months after the date on which the employee is employed as a child care employee (except that, in the case of a child care employee hired before the date on which the training program is established, the Secretary shall require that the employee complete the program not later than six months after that date).

(3) The training program established under this subsection shall cover, at a minimum, training in the following:

(A) Early childhood development.

(B) Activities and disciplinary techniques appropriate to children of different ages.

(C) Child abuse prevention and detection.

(D) Cardiopulmonary resuscitation and other emergency medical procedures.

(b) TRAINING AND CURRICULUM SPECIALISTS.—(1) The Secretary of Defense shall require that at least one employee at each military child development center be a specialist in training and curriculum development. The Secretary shall ensure that such employees have appropriate credentials and experience.

(2) The duties of such employees shall include the following:

(A) Special teaching activities at the center.

(B) Daily oversight and instruction of other child care employees at the center.

(C) Daily assistance in the preparation of lesson plans.

(D) Assistance in the center's child abuse prevention and detection program.

(E) Advising the director of the center on the performance of other child care employees.

(3) Each employee referred to in paragraph (1) shall be an employee in a competitive service position.

(c) PROGRAM TO TEST COMPETITIVE RATES OF PAY.—(1) For the purpose of improving the capability of the Department of Defense to provide military child development centers with a qualified and stable civilian workforce, the Secretary of Defense shall conduct a program as provided in this subsection to increase the compensation of child care employees. The Secretary shall begin the program not later than six months after the date of the enactment of this Act. The program shall be in effect for a period of at least two years.

(2) The program shall apply to all child care employees who—

(A) are directly involved in providing child care~~; and~~

(B) are paid from nonappropriated funds.

(3) Under the program, child care employees at a military installation who are described in paragraph (2) shall be paid—

(A) in the case of entry-level employees, at rates of pay competitive with the rates of pay paid to other entry-level employees at that installation who are drawn from the same labor pool; and

(B) in the case of other employees, at rates of pay substantially equivalent to the rates of pay paid to other employees at that installation with similar training, seniority, and experience.

(d) Employment Preference Test Program for Military Spouses.—(1) The Secretary of Defense shall conduct a test program under which qualified spouses of members of the Armed Forces shall be given a preference in hiring for the position of child care employee in a position paid from nonappropriated funds if the spouse is among persons determined to be best qualified for the position. A spouse who is provided a preference under this subsection at a military child development center may not be precluded from obtaining another preference, in accordance with section 806 of the Military Family Act of 1985 (10 U.S.C. 113 note), in the same geographical area as the military child development center.

(2) The test program under this subsection shall run concurrently with the program under subsection (c).

(e) Report on Compensation and Spouse Employment Preference Programs.—Not later than March 1, 1991, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the programs under subsections (c) and (d). The report shall include the findings of the Secretary concerning the effect of each of the programs on the quality of child care provided in military child development centers and the effect of the spouse employment preference program on employee turnover at such centers.

(f) Additional Child Care Positions.—(1) The Secretary of Defense shall make available for child care programs of the Department of Defense, not later than September 30, 1990, at least 1,000 competitive service positions in addition to the number of competitive service positions in such programs as of September 30, 1989. During fiscal year 1991, the Secretary shall make available to child care programs of the Department additional competitive service positions so that the number of competitive service positions in such programs as of September 30, 1991, is at least 3,700 greater than the number of competitive service positions in such programs as of September 30, 1989.

Reports.

(2) The Secretary may waive the increase otherwise required by the second sentence of paragraph (1) to the extent that the Secretary determines that such increase is not executable. If the Secretary issues such a waiver, the Secretary shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report on the waiver. Any such report shall specify the number of such positions waived and the reasons for the waiver.

(3) The additional positions provided for in paragraph (1), and the workyears associated with those positions, that are used outside the United States shall not be counted for purpose of applying any limitation on the total number of positions or workyears, respectively, available to the Department of Defense outside the United States (or any limitation on the availability of appropriated funds for such positions or workyears for any fiscal year).

(g) Competitive Service Position Defined.—For purposes of this section, the term "competitive service position" means a position in the competitive service, as defined in section 2102(a)(1) of title 5, United States Code.

SEC. 1504. PARENT FEES

Regulations.

The Secretary of Defense shall prescribe regulations establishing fees to be charged parents for the attendance of children at military child development centers. Those regulations shall be uniform for the military departments and shall require that, in the case of children who attend the centers on a regular basis, the fees shall be based on family income.

SEC. 1505. CHILD ABUSE PREVENTION AND SAFETY AT FACILITIES

Establishment.

(a) CHILD ABUSE TASK FORCE.—The Secretary of Defense shall establish and maintain a special task force to respond to allegations of widespread child abuse at a military installation. The task force shall be composed of personnel from appropriate disciplines, including, where appropriate, medicine, psychology, and childhood development. In the case of such allegations, the task force shall provide assistance to the commander of the installation, and to parents at the installation, in helping them to deal with such allegations.

Communications and telecommunications.

(b) NATIONAL HOTLINE.—(1) The Secretary of Defense shall establish and maintain a national telephone number for persons to use to report suspected child abuse or safety violations at a military child development center or family home day care site. The Secretary shall ensure that such reports may be made anonymously if so desired by the person making the report. The Secretary shall establish procedures for following up on complaints and information received over that number.

Effective date.

(2) The Secretary shall establish such national telephone number not later than 90 days after the date of the enactment of this Act and shall publicize the existence of the number.

Regulations.

(c) ASSISTANCE FROM LOCAL AUTHORITIES.—The Secretary of Defense shall prescribe regulations requiring that, in a case of allegations of child abuse at a military child development center or family home day care site, the commander of the military installation or the head of the task force established under subsection (a) shall seek the assistance of local child protective authorities if such assistance is available.

(d) SAFETY REGULATIONS.—The Secretary of Defense shall prescribe regulations on safety and operating procedures at military child development centers. Those regulations shall apply uniformly among the military departments.

(e) INSPECTIONS.—The Secretary of Defense shall require that each military child development center be inspected not less often than four times a year. Each such inspection shall be unannounced. At least one inspection a year shall be carried out by a representative of the installation served by the center, and one inspection a year shall be carried out by a representative of the major command under which that installation operates.

(f) REMEDIES FOR VIOLATIONS.—(1) Except as provided in paragraph (2), any violation of a safety, health, or child welfare law or regulation (discovered at an inspection or otherwise) at a military child development center shall be remedied immediately.

(2) In the case of a violation that is not life threatening, the commander of the major command under which the installation concerned operates may waive the requirement that the violation be remedied immediately for a period of up to 90 days beginning on the date of the discovery of the violation. If the violation is not remedied as of the end of that 90-day period, the military child development center shall be closed until the violation is remedied. The Secretary

of the military department concerned may waive the preceding sentence and authorize the center to remain open in a case in which the violation cannot reasonably be remedied within that 90-day period or in which major facility reconstruction is required.

Reports.

(3) If a military child development center is closed under paragraph (2), the Secretary of the military department concerned shall promptly submit to the Committees on Armed Services of the Senate and House of Representatives a report notifying those committees of the closing. The report shall include—

(A) notice of the violation that resulted in the closing and the cost of remedying the violation; and

(B) a statement of the reasons why the violation has not been remedied as of the time of the report.

(g) REPORT ON COOPERATION WITH DEPARTMENT OF JUSTICE.—(1) The Secretary of Defense, in consultation with the Attorney General, shall study matters relating to military child care that are of concern to the Department of Justice. The matters studied shall include the following:

(A) Improving communication between the Department of Defense and the Department of Justice in investigations of child abuse in military programs and in the coordination of the conduct of such investigations.

(B) Eliminating overlapping responsibilities between the two departments.

(C) Making better use of government and non-government experts in child abuse investigations and prosecutions.

(D) Improving communication with affected families by the Department of Defense, the Department of Justice, and appropriate State and local agencies.

(2) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the study required by paragraph (1). The report shall include recommendations on methods for improving the matters studied.

(3) Not later than nine months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report evaluating the findings in the report submitted under paragraph (2).

Establishment.

SEC. 1506. PARENT PARTNERSHIPS WITH CHILD DEVELOPMENT CENTERS

(a) PARENT BOARDS.—The Secretary of Defense shall require that there be established at each military child development center a board of parents, to be composed of parents of children attending the center. The board shall meet periodically with staff of the center and the commander of the installation served by the center for the purpose of discussing problems and concerns. The board, together with the staff of the center, shall be responsible for coordinating the parent participation program described in subsection (b).

(b) PARENT PARTICIPATION PROGRAMS.—The Secretary of Defense shall require the establishment of a parent participation program at each military child development center. As part of such program, the Secretary of Defense may establish fees for attendance of children at such a center, in the case of parents who participate in the parent participation program at that center, at rates lower than the rates that otherwise apply.

SEC. 1507. REPORT ON FIVE-YEAR DEMAND FOR CHILD CARE

(a) Report Required.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the expected demand for child care by military and civilian personnel of the Department of Defense during fiscal years 1991 through 1995.

(b) Plan for Meeting Demand.—The report shall include—

(1) a plan for meeting the expected child care demand identified in the report; and

(2) an estimate of the cost of implementing that plan.

(c) Monitoring of Family Day Care Providers.—The report shall also include a description of methods for monitoring family home day care programs of the military departments.

SEC. 1508. SUBSIDIES FOR FAMILY HOME DAY CARE

The Secretary of Defense may use appropriated funds available for military child care purposes to provide assistance to family home day care providers so that family home day care services can be provided to members of the Armed Forces at a cost comparable to the cost of services provided by military child development centers. The Secretary shall prescribe regulations for the provision of such assistance.

Regulations.

SEC. 1509. EARLY CHILDHOOD EDUCATION DEMONSTRATION PROGRAM

(a) Demonstration Program for Accredited Centers.—(1) The Secretary of Defense shall carry out a program to demonstrate the effect on the development of preschool children of requiring that military child development centers meet standards of operation necessary for accreditation by an appropriate national early childhood programs accrediting body. To carry out such demonstration program, the Secretary shall ensure that not later than June 1, 1991, at least 50 military child development centers are accredited by such an appropriate national early childhood accrediting body.

(2) Each military child development center so accredited shall be designated as an early childhood education demonstration project and shall serve as a program model for other military child development centers and family home day care providers at military installations.

(b) Plan for Implementation.—Not later than April 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan for carrying out the requirements of subsection (a).

(c) Evaluation.—The Secretary shall obtain an independent evaluation of the demonstration program carried out under subsection (a) to determine the extent to which the imposition of a requirement that military child development centers meet accreditation standards effectively promotes the development of preschool children of members of the Armed Forces. The Secretary shall report the results of the evaluation to Congress, together with such comments and recommendations as the Secretary considers appropriate, not later than July 15, 1992.

Reports.

SEC. 1510. DEADLINE FOR REGULATIONS

Regulations required to be prescribed by this title shall be prescribed not later than 90 days after the date of the enactment of this Act.

TITLE XVI—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1601. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1990 between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON OBLIGATION LIMITATIONS.—A transfer made under the authority of this section increases by the amount of the transfer the obligation limitation provided in this division on the account (or other amount) to which the transfer is made.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1602. RESTATEMENT AND CLARIFICATION OF REQUIREMENT FOR CONSISTENCY IN THE BUDGET PRESENTATIONS OF THE DEPARTMENT OF DEFENSE

(a) RESTATEMENT AND CLARIFICATION.—(1) Chapter 2 of title 10, United States Code, is amended by inserting after section 114 the following new section:

"§ 114a. Five-Year Defense Program: submission to Congress; consistency in budgeting

"(a) The Secretary of Defense shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, the current five-year defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget.

"(b)(1) The Secretary of Defense shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

"(2) Amounts referred to in paragraph (1) are the following:

"(A) The amounts specified in program and budget information submitted to Congress by the Secretary in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the five-year defense program submitted pursuant to subsection (a).

"(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress under that section for any fiscal year.

"(c) Nothing in this section shall be construed to prohibit the inclusion in the five-year defense program of amounts for management contingencies, subject to the requirements of subsection (b).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 114 the following new item:

"114a. Five-Year Defense Program: submission to Congress; consistency in budgeting.".

(b) CONFORMING AMENDMENT.—Section 114 of title 10, United States Code, is amended by striking out subsections (f) and (g).

SEC. 1603. LIMITATION ON RESTORATION OF WITHDRAWN UNOBLIGATED BALANCES

(a) CONDITIONS ON RESTORATION.—(1) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2782. Unobligated balances withdrawn from availability for obligation: limitations on restoration

"(a)(1) If a defense funds restoral to provide funds for a program, project, or activity to cover amounts required for late contract changes would cause the the total amount of such restorals during a fiscal year for late contract changes for that program, project or activity to exceed $4,000,000, the restoral action may only be carried out if—

"(A) the Secretary of the military department concerned, or the Secretary of Defense, with respect to a program, project, or activity administered by a Defense Agency, determines that such action is necessary to pay obligations and make adjustments under an existing contract; and

"(B) the action is approved by the Secretary of Defense (or an officer of the Department of Defense within the Office of the Secretary of Defense to whom the Secretary has delegated the authority to approve such an action).

"(2) A contract change shall be considered to be a late contract change for purposes of paragraph (1) if it is made after the end of the period of availability for obligation of the account to which funds are to be restored under the restoral action.

"(b) In a case in which any defense funds restoral to provide funds for a program, project, or activity of the Department of Defense would cause the total amount so restored during a fiscal year for that program, project or activity to exceed $25,000,000, the restoral action may not be taken until—

"(1) the Secretary of Defense submits to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a notice in writing of the intent to restore such funds, together with a description of the legal basis for the proposed action and the policy reasons for the proposed action; and

"(2) a period of 30 days has elapsed after the notice is submitted.

"(c) In this section:

"(1) The term 'defense funds restoral' means a restoration of funds authorized by section 1552(a)(2) of title 31 to an appropriation account of the Department of Defense.

"(2) The term 'contract change' means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under a so-called 'escalation clause'.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2782. Unobligated balances withdrawn from availability for obligation: limitations on restoration.".

(b) REPORT ON STATUS OF AIR FORCE FUNDS IN TREASURY M ACCOUNT.—The Secretary of Defense shall submit to the congressional defense committees a report on the status of the availability of expired or lapsed funds of the Department of the Air Force in the Department of Treasury Account known as the "M Account". The report shall include an accounting of all funds for the B-1B aircraft program that have been transferred to that account and the amount of those funds that have been withdrawn or obligated from that account. The report shall be submitted concurrently with the submission to Congress of the budget for fiscal year 1991.

31 USC 1531 note.

SEC. 1604. PROHIBITION ON TRANSFER OF FUNDS TO OTHER DEPARTMENTS AND AGENCIES

Funds made available pursuant to this or any other Act for military functions of the Department of Defense may not be made available to any other department or agency of the Federal Government pursuant to a provision of law enacted after the date of the enactment of this Act unless, not less than 30 days before such funds are made available to such other department or agency, the Secretary of Defense submits to the congressional defense committees a report describing the effect on military preparedness of making such funds available to such department or agency.

SEC. 1605. AUTHORITY TO TRANSFER FUNDS TO DEPARTMENT OF ENERGY

(a) TRANSFERS FOR ATOMIC ENERGY DEFENSE ACTIVITIES.—During fiscal year 1990, the Secretary of Defense may transfer to the Department of Energy, from funds appropriated to the Department of Defense, such sums (not to exceed $135,000,000) as the Secretary of Defense and the Secretary of Energy, with the approval of the President, determine are necessary for Atomic Energy Defense Activities. Funds so transferred shall be merged with, and shall be available for the same time period as, the appropriation account to which transferred.

(b) CONGRESSIONAL NOTICE-AND-WAIT.—A transfer may not be made under subsection (a) until—

(1) the Secretary of Defense notifies the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the proposed transfer and of the source of the funds for the proposed transfer; and

(2) a period of 30 days elapses after the notice is received by those committees.

SEC. 1606. ONE-YEAR DELAY IN ANY CHANGE IN POLICY RESPECTING REIMBURSEMENT OF DEPARTMENT OF DEFENSE FUNDS FOR SALARIES OF MEMBERS OF THE ARMED FORCES ASSIGNED TO DUTY IN CONNECTION WITH FOREIGN MILITARY SALES PROGRAMS

(a) ONE-YEAR DELAY.—Charges for administrative services calculated under section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)) in connection with the sale of defense articles or defense services may not exclude recovery of administrative expenses incurred by the Department of Defense before October 1, 1990, that are attributable to salaries of members of the Armed Forces if the recovery of such administrative expenses would have been allowed under the law in effect on September 30, 1989. Reimbursement of Department of Defense military personnel appropriation accounts for the value of services provided during fiscal year 1990 in connection with the sale of defense articles or defense services may not be denied or limited except to the extent permitted under the law in effect on September 30, 1989.

(b) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of the enactment of this Act may not be construed as modifying or superseding this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 1607. REPAIR AND REPLACEMENT OF PROPERTY OF THE DEPARTMENT OF DEFENSE DAMAGED OR DESTROYED BY HURRICANE HUGO

(a) Subject to subsection (b), the Secretary of Defense may take such action as he considers necessary to repair damage to real property, facilities, equipment, and other property of the Department of Defense caused by hurricane Hugo in September 1989 or to replace any such property damaged beyond economical repair by that hurricane.

(b) The authority of the Secretary under subsection (a) is subject to the availability of appropriations that may be used for the purposes described in such subsection.

PART B—NAVAL VESSELS AND SHIPYARDS

SEC. 1611. IDENTIFICATION AND HANDLING OF HAZARDOUS WASTES IN NAVAL SHIP REPAIR WORK

(a) REVISION OF REQUIRED CONTRACT PROVISIONS.—Section 7311 of title 10, United States Code, is amended to read as follows:

"§ 7311. Repair or maintenance of naval vessels: handling of hazardous waste

"(a) CONTRACTUAL PROVISIONS.—The Secretary of the Navy shall ensure that each contract entered into for work on a naval vessel (other than new construction) includes the following provisions:

"(1) IDENTIFICATION OF HAZARDOUS WASTES.—A provision in which the Navy identifies the types and amounts of hazardous wastes that are required to be removed by the contractor from the vessel, or that are expected to be generated, during the performance of work under the contract, with such identification by the Navy to be in a form sufficient to enable the contractor to comply with Federal and State laws and regulations on the removal, handling, storage, transportation, or disposal of hazardous waste.

"(2) COMPENSATION.—A provision specifying that the contractor shall be compensated under the contract for work performed by the contractor for duties of the contractor specified under paragraph (3).

"(3) STATEMENT OF WORK.—A provision specifying the responsibilities of the Navy and of the contractor, respectively, for the removal (including the handling, storage, transportation, and disposal) of hazardous wastes.

"(4) ACCOUNTABILITY FOR HAZARDOUS WASTES.—(A) A provision specifying the following:

"(i) In any case in which the Navy is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the Navy pursuant to applicable law.

"(ii) In any case in which the contractor is the sole generator of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear a generator identification number issued to the contractor pursuant to applicable law.

"(iii) In any case in which both the Navy and the contractor are generators of hazardous waste that is removed, handled, stored, transported, or disposed of by the contractor in the performance of the contract, all contracts, manifests, invoices, and other documents related to the removal, handling, storage, transportation, or disposal of such hazardous waste shall bear both a generator identification number issued to the Navy and a generator identification number issued to the contractor pursuant to applicable law.

"(B) A determination under this paragraph of whether the Navy is a generator, a contractor is a generator, or both the Navy and a contractor are generators, shall be made in the same manner provided under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) and regulations promulgated under that subtitle.

"(b) RENEGOTIATION OF CONTRACT.—The Secretary of the Navy shall renegotiate a contract described in subsection (a) if—

"(1) the contractor, during the performance of work under the contract, discovers hazardous wastes different in type or amount from those identified in the contract; and

"(2) those hazardous wastes originated on, or resulted from material furnished by the Government for, the naval vessel on which the work is being performed.

"(c) REMOVAL OF WASTES.—The Secretary of the Navy shall remove known hazardous wastes from a vessel before the vessel's arrival at a contractor's facility for performance of a contract, to the extent such removal is feasible.

"(d) RELATIONSHIP TO SOLID WASTE DISPOSAL ACT.—Nothing in this section shall be construed as altering or otherwise affecting those provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that relate to generators of hazardous waste. For purposes of this section, any term used in this section for which a definition is provided by the Solid Waste Disposal Act (or regulations promulgated pursuant to such Act) has the meaning provided by that Act or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any contract for work on a naval vessel (other than new construction) entered into after the end of the 90-day period beginning on the date of the enactment of this Act.

10 USC 7311 note.

SEC. 1612. PROGRESS PAYMENTS UNDER NAVAL VESSEL REPAIR CONTRACTS

Section 7312 of title 10, United States Code, is amended—

(1) by striking out "90 percent" and "85 percent" in subsection (a) and inserting in lieu thereof "95 percent" and "90 percent", respectively; and

(2) by striking out "(other than a nuclear-powered vessel) for work required to be performed in one year or less" in subsection (b).

SEC. 1613. FUNDING FOR SHIP PRODUCTION ENGINEERING

10 USC 7291 note.

(a) CATEGORY FOR FUNDING.—Any request submitted to Congress for appropriations for ship production engineering necessary to support the procurement of any ship included (at the time the request is submitted) in the five-year shipbuilding and conversion plan of the Navy shall be set forth in the Shipbuilding and Conversion account of the Navy (rather than in research and development accounts).

(b) APPLICABILITY.—Subsection (a) shall apply only with respect to appropriations for a fiscal year after fiscal year 1990.

SEC. 1614. DEPOT-LEVEL MAINTENANCE OF SHIPS HOMEPORTED IN JAPAN

10 USC 7291 note.

(a) REQUIREMENT THAT CERTAIN WORK BE PERFORMED IN UNITED STATES.—The Secretary of the Navy shall require that, to the extent feasible and consistent with policies of the Navy regarding family separations, not less than one-half of the depot-level maintenace work described in subsection (b) (measured in cost) shall be carried out in shipyards in the United States (including the territories of the United States).

(b) WORK COVERED.—Depot-level maintenance work referred to in subsection (a) is depot-level maintenance work for naval vessels that is scheduled as of October 1, 1989, to be carried out in Japan during fiscal years 1990, 1991, and 1992.

(c) CONFORMING REPEAL.—Section 1226 of Public Law 100-456 (102 Stat. 2055) is repealed.

10 USC 7291 note.

SEC. 1615. REPORT ON ALTERNATIVES TO NAVY OXYGEN BREATHING APPARATUS FOR SHIPBOARD FIREFIGHTING

(a) STUDY.—The Secretary of the Navy shall evaluate alternatives to the Oxygen Breathing Apparatus (OBA) of the Navy used in shipboard firefighting. The evaluation shall include consideration of—

(1) firefighting breathing devices which are used by other government agencies;

(2) firefighting breathing devices which are commercially available; and

(3) undeveloped technologies which could lead to the development of a more effective breathing device for shipboard firefighting.

(b) CRITERIA.—In performing the evaluation under subsection (a), the Secretary shall consider the following criteria for firefighting breathing devices:

(1) Uninterrupted breathing duration.

(2) Adaptability to shipboard space limitations.

(3) Portability in use.

(4) Training requirements for effective use.

(5) Cost.

(6) Availability.

(c) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation under subsection (a). The report shall include an acquisition plan for providing an improved breathing apparatus for shipboard firefighting as soon as possible. In preparing that plan, the Secretary shall consider the use of any available expedited research and development and acquisition procedures.

(2) The report shall be submitted no later than 180 days after the date of the enactment of this Act.

SEC. 1616. STRIPPING OF NAVAL VESSELS TO BE USED FOR EXPERIMENTAL PURPOSES

Section 7306 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary of the Navy,"; and

(2) by adding at the end the following:

"(b)(1) Before using any vessel for an experimental purpose pursuant to this section, the Secretary shall carry out such stripping of the vessel as is practicable.

"(2) Amounts received as a result of stripping of vessels pursuant to this subsection shall be credited to applicable appropriations available for the procurement of scrapping services under this subsection, to the extent necessary for the procurement of those services. Amounts received which are in excess of amounts necessary for procuring those services shall be deposited into the general fund of the Treasury.

"(3) In providing for stripping of a vessel pursuant to this subsection, the Secretary shall ensure that such stripping does not destroy or diminish the structural integrity of the vessel.".

PART C—TECHNICAL CORRECTIONS AND GENERAL TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1621. TECHNICAL AMENDMENTS TO CONFORM REFERENCES TO CREATION OF DEPARTMENT OF VETERANS AFFAIRS

(a) TITLE 10 UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The following sections are amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs": sections 176(a)(3), 772(g), 1174(h)(2), 1201(3)(B), 1203(4)(A), 1203(4)(B), 1203(4)(C), 1204(4)(B), 1206(4), 1209, 1210(c), 1210(d), 1210(e), 1212(c), 1218(a)(1), 1431(b)(1), 1433 (in two places), 1441, 1449, 1450(h), 1452(g)(1), 1452(g)(5), 1476(b), 2641(a), 2641(b)(1) (in two places), 2641(d)(2), 4342(a)(1), 4621(d),

4683(a)(1), 4713(c), 6954(a)(1), 7603, 9342(a)(1), 9621(d), and 9713(c).

(2) The following sections are amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs": sections 1074(b), 1216(c), 1476(a)(2), 1477(b)(5)(C), 1480(b), 1480(c), 1552(e), 1553(a), 1553(c), 1554(c), 2006(d), 2641(b) (in two places), and 6160(b).

(3) Section 1086(g) is amended by striking out "Veterans' Administration facilities" and inserting in lieu thereof "facilities of the Department of Veterans Affairs".

(4) Sections 1168(b) and 1218(c) are amended by striking out "Veterans' Administration facility" and inserting in lieu thereof "facility of the Department of Veterans Affairs".

(5) Section 1480(c) is amended by striking out "the Secretary or the Administrator" and inserting in lieu thereof "the Secretary concerned or the Secretary of Veterans Affairs".

(6) Section 2006(d) is amended by striking out "the Administrator" in the second sentence and inserting in lieu thereof "the Secretary of Veterans Affairs".

(7)(A) The heading of section 2185 is amended to read as follows:

"§ 2185. Programs to be consistent with programs administered by the Department of Veterans Affairs".

(B) The item relating to such section in the table of sections at the beginning of chapter 110 is amended to read as follows:

"2185. Programs to be consistent with programs the Department of Veterans Affairs.".

(8) Section 2641(b)(1) is amended by striking out "the Administrator requests" and inserting in lieu thereof "the Secretary of Veterans Affairs requests".

(9) Section 2679 is amended—

(A) in subsection (a)—

(i) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs";

(ii) by inserting "concerned" after "Secretary" the second and third places it appears; and

(iii) by striking out "the Administrator," and inserting in lieu thereof "the Secretary of Veterans Affairs," and

(B) in subsection (c), by striking out "the Administrator" and inserting in lieu thereof "the Secretary of Veterans Affairs".

(10) The text of each of sections 3446 and 8446 is amended to read as follows:

"The President may retain on active duty a disabled officer until—

"(1) the physical condition of the officer is such that the officer will not be further benefited by retention in a military hospital or a medical facility of the Department of Veterans Affairs; or

"(2) the officer is processed for physical disability benefits as provided by law.".

(b) TITLE 37 UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 602(b)(5) is amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(2) Section 603 is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

SEC. 1622. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS TO TITLE 10, UNITED STATES CODE

(a) Correction of Duplicate Section Numbers.—The second section 7313 of title 10, United States Code (enacted by section 1225 of Public Law 100-456), is redesignated as section 7314, and the item relating to that section in the table of sections at the beginning of chapter 633 of such title is revised to reflect that redesignation.

(b) Transfer and Redesignation of Section.—(1) Section 975 of title 10, United States Code, is transferred to chapter 141, inserted after section 2389, and redesignated as section 2390.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2389 the following new item:

"2390. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.".

(3) The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 975.

(c) Punctuation and Capitalization Corrections.—Title 10, United States Code, is further amended as follows:

(1) Section 113(j)(2)(B) is amended by striking out "Five-Year Defense Program" and inserting in lieu thereof "five-year defense program".

(2) The item relating to section 421 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"421. Funds for foreign cryptologic support.".

(3) Section 421(c) is amended—

(A) by inserting "of Representatives" after "of the House"; and

(B) by striking out "National Security Act of 1947, as amended, and funds" and inserting in lieu thereof "National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds".

(4) Section 1482(e) is amended by striking out "chapter 10, title 37" and inserting in lieu thereof "chapter 10 of title 37".

(5) Section 2325(d) is amended by striking out "previously-developed" and inserting in lieu thereof "previously developed".

(6) Subparagraph (D) of section 2326(g)(1) is amended by striking out "(D) Congressionally-mandated" and inserting in lieu thereof "(D) Congressionally mandated".

(7) Sections 2463(b) and 2464(b)(3)(A) are amended by striking out "Committee on Appropriations" and inserting in lieu thereof "Committees on Appropriations".

(8) Section 7309(a) is amended by inserting a comma after "armed forces".

(d) Revision to Part Heading.—

(1) The heading of part III of subtitle A of title 10, United States Code, is amended to read as follows:

"PART III—TRAINING AND EDUCATION".

(2) The item relating to that part in the table of chapters at the beginning of subtitle A of that title is amended to read as follows:

"PART III—TRAINING AND EDUCATION".

(e) DEFINITIONS.—Title 10, United States Code, is further amended as follows:

(1) Section 138(a)(2) is amended—

(A) by striking out "(A) 'Operational'" and inserting in lieu thereof "(A) The term 'operational' "; and

(B) by striking out "(B) 'Major' " and inserting in lieu thereof "(B) The term 'major'".

(2) Section 1032(d) is amended—

(A) by striking out "(1) 'Dependent" and inserting in lieu thereof "(1) The term 'dependent"; and

(B) by inserting "The term" after "(2)".

(3) Section 1094(d) is amended—

(A) by striking out "(1) 'License" and inserting in lieu thereof "(1) The term 'license"; and

(B) by striking out "(2) 'Health-care" and inserting in lieu thereof "(2) The term 'health-care".

(4) Section 1586(g) is amended—

(A) by striking out "For the purposes of this section—" and inserting in lieu thereof "In this section:";

(B) by inserting "The term" in paragraphs (1) and (2) after the paragraph designation; and

(C) by striking out "; and" at the end of paragraph (1) and inserting in lieu thereof a period.

(5) Sections 1095(g), 4348(d), and 9348(d) are amended by inserting "the term" after "In this section,".

(6) Section 1408(a) is amended—

(A) by inserting "The term" in each paragraph after the paragraph designation; and

(B) by revising the first word after the open quotation marks in each paragraph so that the initial letter of that word is lower case.

(7) Section 1461(b) is amended by inserting "the term" after "In this chapter,".

(8) Sections 5441, 6964(a), and 7081(a) are amended by inserting ", the term" after "In this chapter".

(f) AMENDMENTS FOR STYLISTIC CONSISTENCY.—Title 10, United States Code, is further amended as follows:

(1) Section 2575(a) is amended by striking out "of this section" in the first sentence.

(2) Section 7422(c)(2)(B) is amended by striking out "one hundred eighty days prior to" and inserting in lieu thereof "180 days before".

(g) DATE OF ENACTMENT REFERENCE.—Section 6334(a) of title 10, United States Code, is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "December 4, 1987".

(h) OBSOLETE PROVISIONS.—(1) Section 194 of title 10, United States Code, is amended by striking out "After September 30, 1989, the" in subsections (a) and (b) and inserting in lieu thereof "The".

(2) Section 601 of Public Law 99-433 (10 U.S.C. 194 note) is amended by striking out "Effective on October 1, 1988, the" in subsection (a)(1) and inserting in lieu thereof "The".

SEC. 1623. AMENDMENTS TO SECTION 8125 OF PUBLIC LAW 100-463

Section 8125 of Public Law 100-463 (10 U.S.C. 113 note; 102 Stat. 2270-41) is amended as follows:

(1) Subsection (c) is amended—

(A) by striking out "incude" and inserting in lieu thereof "include";

(B) by inserting a comma after "burdensharing";

(C) by striking out "assistance costs: *Provided,* That the" and inserting in lieu thereof "assistance costs. The"; and

(D) by striking out "Department of" and inserting in lieu thereof "Secretaries of".

(2) Subsection (d) is amended—

(A) by striking out "in the budgets" and inserting in lieu thereof "in each budget";

(B) by striking out "for fiscal years after fiscal year 1989" and inserting in lieu thereof "(1)"; and

(C) by inserting "(2)" after "military units, and".

(3) Subsection (f) is amended—

(A) in the first sentence, by striking out "after fiscal year 1989"; and

(B) in the second sentence—

(i) by striking out "provided for" and inserting in lieu thereof "in";

(ii) by inserting "(1)" after "if and when"; and

(iii) by inserting "(2)" after "that nation, and".

(4) Subsection (g) is amended—

(A) by striking out "Department of Defense" before "budget submissions" in paragraph (1);

(B) by striking out "1989, and shall detail: (A) a description of" in paragraph (1) and inserting in lieu thereof "1989 and shall set forth a detailed descripton of (A)";

(C) by striking out "the House and Senate" in paragraph (2) and inserting in lieu thereof "the Senate and House of Representatives,"; and

(D) by inserting "outside the United States" in paragraph (2) after "duty stations ashore".

SEC. 1624. REPORT ON RECURRING PROVISIONS OF DEFENSE APPROPRIATIONS ACT

(a) REPORT.—Not later than April 1, 1990, the Secretary of Defense shall submit to the defense committees of Congress a report on recurring provisions of law enacted in the General Provisions title of the Department of Defense Appropriations Act, 1990.

(b) MATTERS TO BE INCLUDED.—With respect to each provision covered by the report, the report shall indicate the following:

(1) When the provision (or a substantially similar provision) was first included in an annual Department of Defense Appropriations Act.

(2) The original policy reason (as nearly as the Secretary can determine) for the inclusion of such a provision.

(3) The Secretary's assessment as to whether that reason still pertains and whether there are additional policy reasons for the

continuing inclusion of the provision in annual Acts making appropriations for the Department of Defense.

(4) The Secretary's recommendation as to whether the policy of that provision should continue to be provided by law and, if the recommendation is that the policy should not continue to be provided by law, a detailed statement of the reasons for such recommendation.

(5) In the case of each provision which the Secretary recommends under paragraph (4) should continue to be provided by law, the recommendation of the Secretary as to whether such provision should continue to be included in annual Acts making appropriations for the Department of Defense or whether it would be desirable for Congress to enact such provision as permanent law and, if the recommendation is that the policy should not be enacted as permanent law, a detailed statement of the reasons for such recommendation.

(c) DRAFT OF PROPOSED LEGISLATION.—The report shall include a draft of proposed legislation for the codification into title 10, United States Code, or other appropriate statutes of those provisions covered by the report which the Secretary recommends (under subsection (b)(5)) would be desirable for Congress to enact as permanent law.

(d) UPDATE OF EARLIER REPORT.—The report shall be an update of the report submitted by the General Counsel of the Department of Defense pursuant to section 1267 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 705).

(e) DEFINITIONS.—For purposes of this section:

(1) The term "defense committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

(2) The term "recurring provision" means a provision of an appropriatons Act which (1) is not permanent law, and (2) has been enacted in substantially the same form in previous Acts making appropriations for the same purpose.

PART D—MISCELLANEOUS

SEC. 1631. STUDY OF PROTECTION OF UNITED STATES CIVIL AVIATION FROM TERRORIST ACTIVITIES OVERSEAS

(a) STUDY.—The Secretary of Defense shall conduct a study on the feasibility and desirability of the United States, at the request of a foreign government, deploying military personnel or providing military equipment in areas under the jurisdiction of that government to assist that government in the protection of United States civil aviation interests from terrorist activity. The study should also undertake to determine what programs of the Department of Defense (1) have application to enhancing civil aviation security, and (2) could be quickly adopted by the Federal Aviation Administration for that purpose.

(b) RESEARCH AND DEVELOPMENT MATTERS TO BE STUDIED.—The study shall include a review of United States Government programs concerning research and development in areas relating to explosives detection, terrorist identification, and anti-terrorist operations.

(c) INTERAGENCY COORDINATION.—The study shall be conducted in consultation with the Secretary of State and the Administrator of the Federal Aviation Administration.

(d) SUBMISSION OF REPORT.—The Secretary shall submit to Congress a report on the study (including the Secretary's findings, conclusions, and recommendations) within six months after the date of enactment of this Act.

SEC. 1632. DEDICATION OF CORRIDOR IN PENTAGON TO SERVICE MEMBERS WHO SERVED IN SPACE-RELATED ACTIVITIES

It is the sense of Congress that the Secretary of Defense should dedicate an appropriate corridor in the Pentagon building to commemorate the service of the members of the Armed Forces who have served in space-related activities, including service with the National Aeronautics and Space Administration, the United States Space Command, and the Strategic Defense Initiative Organization.

SEC. 1633. DELEGATION AUTHORITY WITH RESPECT TO ADMIRALTY CLAIMS BY OR AGAINST THE UNITED STATES

Sections 4802(c), 4803(c), 7622(c), 7623(c), 9802(c), and 9803(c) of title 10, United States Code, are each amended by striking out "$10,000" and inserting in lieu thereof "$100,000".

SEC. 1634. AUTHORITY TO ACCEPT VOLUNTARY SERVICES FOR NATURAL RESOURCES PROGRAMS

Section 1588(a) of title 10, United States Code, is amended by striking out "a museum" and inserting in lieu thereof "a museum, a natural resources program,".

SEC. 1635. FINDINGS AND CONGRESSIONAL DECLARATIONS CONCERNING SERVICE IN THE NATIONAL GUARD AND RESERVES

(a) FINDINGS.—Congress makes the following findings:

(1) Citizens and nationals of the United States have taken up arms to defend their homes and communities, and to secure and preserve the independence of the United States, from the earliest days of the Nation.

(2) The concept of the citizen-soldier has been a keystone of the defense strategy of the Nation.

(3) Members of the National Guard and Reserves have served proudly and honorably in every war or conflict involving United States Armed Forces.

(4) The Total Force Policy of the United States, by placing significant portions of wartime mission capability and selected day-to-day operations in the National Guard and Reserve, has reinforced the proposition that the Guard and Reserve are essential elements of the national defense establishment of the United States.

(5) During the 1980's, Congress and the Department of Defense have demonstrated their increasing reliance and confidence in the National Guard and Reserve by expanding missions, increasing training requirements, and providing new state-of-the-art weapons and support equipment.

(6) The National Guard and Reserve represent a very cost-effective arm of the Total Force, preserving combat capability and retaining valuable trained human resources, especially during periods of austere defense budgets.

(7) Participation by citizens in the National Guard and Reserve enhances the military readiness of the United States and demonstrates the resolve of the citizenry to protect and preserve American values.

(8) Participation in the National Guard and Reserve improves the economy by providing individuals with job skills and education.

(b) CONGRESSIONAL DECLARATIONS.—In light of the findings in subsection (a), Congress—

(1) reaffirms that service in the National Guard and Reserve is in the highest traditions of military service to the country and acknowledges the valuable contribution that the men and women who serve in the National Guard and Reserve are making to their country;

(2) encourages Guard and Reserve participation by all elements of American society; and

(3) continues to support reliance on the National Guard and Reserve as full partners in the Total Force.

SEC. 1636. EXPANSION OF SCOPE OF CIVIL RESERVE AIR FLEET ENHANCEMENT PROGRAM

(a) DEFINITIONS.—(1) Paragraph (2) of section 9511 of title 10, United States Code, is amended to read as follows:

"(2) The term 'passenger-cargo combined aircraft' means a civil aircraft equipped so that its main deck can be used to carry both passengers and property (including mail) simultaneously.".

(2) Paragraph (5) of such section is amended to read as follows:

"(5) The term 'cargo-convertible aircraft' means a passenger aircraft equipped or designed so that all or substantially all of the main deck of the aircraft can be readily converted for the carriage of property or mail.".

(3) Paragraph (8) of such section is amended by striking out "a civil aircraft" in clause (A) and all that follows through "defense purposes" and inserting in lieu thereof "a new or existing aircraft and who contracts with the Secretary to modify that aircraft by including or incorporating specified defense features".

(4) Such section is further amended by adding at the end the following new paragraph:

"(12) The term 'defense feature' means equipment or design features included or incorporated in a civil aircraft which ensures the interoperability of such aircraft with the Department of Defense airlift system. Such term includes any equipment or design feature which enables such aircraft to be readily modified for use as a cargo-convertible, cargo-capable, or passenger-cargo combined aircraft.".

(b) CONTRACT AUTHORITY.—Section 9512 of such title is amended to read as follows:

"§ 9512. Contracts for the inclusion or incorporation of defense features

Aircraft and air carriers.

"(a) Subject to the provisions of chapter 137 of this title, and to the extent that funds are otherwise available for obligation, the Secretary—

"(1) may contract with any citizen of the United States for the inclusion or incorporation of defense features in any new or existing aircraft to be owned or controlled by that citizen; and

"(2) may contract with United States aircraft manufacturers for the inclusion or incorporation of defense features in new aircraft to be operated by a United States air carrier.

"(b) Each contract entered into under subsection (a) shall include the terms required by section 9513 of this title and a provision that requires the contractor to repay to the United States a percentage (to be established in the contract) of any amount paid by the United States to the contractor under the contract with respect to any aircraft if—

"(1) the aircraft is destroyed or becomes unusable, as defined in the contract;

"(2) the defense features specified in the contract are rendered unusable or are removed from the aircraft;

"(3) control over the aircraft is transferred to any person that is unable or unwilling to assume the contractor's obligations under the contract; or

"(4) the registration of the aircraft under section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is terminated for any reason not beyond the control of the contractor.

"(c)(1) A contract under subsection (a) for the inclusion or incorporation of defense features in an aircraft may include a provision authorizing the Secretary—

"(A) to contract, with the concurrence of the contractor, directly with another person for the performance of the work necessary for the inclusion or incorporation of defense features in such aircraft; and

"(B) to pay such other person directly for such work.

"(2) A contract entered into pursuant to paragraph (1) may include such specifications for work and equipment as the Secretary considers necessary to meet the needs of the United States.".

(c) CLERICAL AMENDMENTS.—(1) The heading of section 9513 is amended to read as follows:

"§ 9513. Commitment of aircraft to the Civil Reserve Air Fleet"

(2) The items relating to sections 9512 and 9513 in the table of sections at the beginning of chapter 931 of title 10, United States Code, are amended to read as follows:

"9512. Contracts for the inclusion or incorporation of defense features.
"9513. Commitment of aircraft to the Civil Reserve Air Fleet.".

SEC. 1637. REPORT ON CERTAIN PERSONS PARTICIPATING IN RADIATION-RISK ACTIVITIES

(a) REPORT.—The Secretary of Defense shall prepare, in consultation with the Secretary of Veterans Affairs, a report identifying the number of persons who, while serving on active-duty for training, inactive-duty training, or as a military technician of the National Guard, participated in a radiation-risk activity, but are not covered under section 312(c) of title 38, United States Code (as added by the Radiation-Exposed Veterans Compensation Act of 1988; Public Law 100-321). For purposes of the report, the term "radiation-risk activity" has the meaning given that term by section 312(c)(4) of such title.

(b) DEADLINE.—The report required by subsection (a) shall be submitted to Congress not later than February 15, 1990.

SEC. 1638. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING KIDNAPPING AND MURDER OF LIEUTENANT COLONEL HIGGINS

(a) FINDINGS.—Congress makes the following findings:

(1) The radical, Lebanese-based terrorist organization which calls itself the "Organization of the Oppressed of the Earth" announced on July 31, 1989, that it had executed Lieutenant

Colonel William R. Higgins, a United States Marine assigned for service with the United Nations in the U.N. Truce Supervision Organization (UNTSO), who was kidnapped in southern Lebanon on February 17, 1988.

(2) That organization claimed to have executed Lieutenant Colonel Higgins in response to the capture on July 28, 1989, by Israeli commandos of a radical Muslim Shiite leader, Sheik Abdul Karim Obeid, believed to be associated with that organization.

Abdul Karim Obeid.

(3) That organization released to certain news agencies a videotape showing Lieutenant Colonel Higgins killed by hanging, though many forensic experts believe the videotape indicates that the person shown did not die from hanging.

(4) The kidnapping of Lieutenant Colonel Higgins, who was engaged only in carrying out the legitimate United Nations peacekeeping activities to which he had been assigned, was wholly unjustified.

(5) It is absolutely clear that the kidnapping and the murder of Lieutenant Colonel Higgins were outrageous acts of terrorism that deserve the condemnation of all civilized people.

(6) There is strong evidence that the Government of Iran has supported the organization responsible for Lieutenant Colonel Higgins' kidnapping and murder, as well as other terrorist and extremist forces inside Lebanon and throughout the Middle East.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress is outraged by the kidnapping and murder of Lieutenant Colonel Higgins and condemns those actions as barbaric, cowardly, and utterly incompatible with the standards of conduct upheld by civilized people;

(2) the President should use all available resources of the United States Government, including diplomatic and intelligence channels, to determine the identity of those persons responsible for the kidnapping and murder and the details regarding those terrorist acts;

(3) the President should determine whether it would be possible to identify and bring to justice, or to retaliate against, those persons responsible for the kidnapping and murder in a manner consistent with United States and international legal requirements that would reduce the risk to Americans from terrorism;

(4) the President should take strong and decisive action, possibly including the use of military force, to prevent or respond to acts of international terrorism. Such actions should be taken in concert with other nations where practicable, but the President should be prepared to act unilaterally, if necessary;

(5) the United States should make clear to the new leadership in Iran (A) that the United States will not tolerate a continuation of past policies of support of groups which undertake terrorist actions against American citizens or direct assaults on American vital interests in the Middle East or elsewhere, and (B) that if such support should continue, the United States will hold the authorities in Iran accountable for that support and act accordingly;

(6) the Secretary General of the United Nations should take all necessary steps to help ensure that the body of Lieutenant Colonel Higgins is returned to his country and family and that

those responsible for his kidnapping and murder are immediately brought to justice;

(7) the President should engage in urgent and continuing diplomatic contacts with all other governments concerning their policies and actions which might have relevance to the interests of the United States Government or increase the vulnerability of the United States citizens to attacks by terrorists; and

(8) the President should continue to consult with other nations to ensure international cooperation and coordination to end terrorist attacks.

SEC. 1639. REPORTS ON CONTROLS ON TRANSFER OF MISSILE TECHNOLOGY AND CERTAIN WEAPONS TO OTHER NATIONS

(a) Requirement for Submission of Previously Required Report.—Section 901(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1135) is amended by striking out "February 1, 1988" and inserting in lieu thereof "60 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 1990".

(b) Report on Manpower Required To Implement Export Controls on Certain Weapons Transfers.—(1) Not later than February 1, 1990, the Secretary of Defense shall submit to Congress a report relating to Department of Defense manpower required to implement export controls on certain weapons transfers. In the report, the Secretary shall—

(A) identify the role of the Department of Defense in implementing export controls on nuclear, chemical, and biological weapons;

(B) describe the number and skills of personnel currently available in the Department of Defense to perform such role; and

(C) assess the adequacy of the level of personnel resources described in subparagraph (B) for the effective performance of such role.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel, and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following activities of the Department in implementing export controls on nuclear, chemical, and biological weapons:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to implementing export controls on nuclear, chemical, and biological weapons.

(c) REPORT ON MISSILE TECHNOLOGY CONTROL REGIME ENFORCEMENT.—(1) The Secretary of Defense shall include in the report under subsection (b) information concerning the Missile Technology Control Regime (MTCR). In the report, the Secretary shall review the existing regulations covering the issues addressed by the MTCR and shall assess whether those regulations—

(A) appropriately cover each item listed in the MTCR annex; and

(B) sufficiently stress consideration of ultimate end use of an item as a factor in issuance of export licenses with respect to that item.

(2) In the report, the Secretary shall also assess whether, in the case of a request for an export license involving a country that is considered to be a suspect country for purposes of the regime, or involving a commodity that is considered to be a suspect commodity for purposes of the regime, sufficient information on that request is brought to the attention of the Department of Defense before such a license is issued and, if not, what measures could be taken to improve Department of Defense oversight of the issuance of export licenses in such cases.

(3) In the report, the Secretary may also address whatever other initiatives for the enforcement of the regime the Secretary considers would help strengthen the regime.

SEC. 1640. REVIEWS AND REPORTS ON DECONTROL OF CERTAIN PERSONAL COMPUTERS

(a) REVIEWS.—The Secretary of Defense and the Secretary of Commerce shall each conduct an independent review on the foreign availability of the personal computers known as AT-compatible microcomputers. Each Secretary, in conducting his review, shall, at a minimum, determine the availability of such microcomputers from sources other than member nations of the Coordinating Committee for Multilateral Export Controls or other nations that control the export of such computers. The Secretary of Defense, in conducting his review, also shall assess the military significance of such microcomputers for the Soviet Union and its Warsaw Pact allies.

(b) REPORTS.—The Secretary of Defense and the Secretary of Commerce shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the respective reviews required by subsection (a).

(c) DEADLINE FOR REPORTS.—The reports required by subsection (b) shall be submitted not later than January 1, 1990.

SEC. 1641. ANNUAL DEPARTMENT OF DEFENSE CONVENTIONAL STANDOFF WEAPONS MASTER PLAN AND REPORT ON STANDOFF MUNITIONS

10 USC 2431 note.

(a) ANNUAL SUBMISSION OF MASTER PLAN FOR JOINT STANDOFF WEAPONS.—Not later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees a plan (known as a "Department of Defense Conventional Standoff Weapons Master Plan") for the development of standoff weapons which can adequately address the needs of more than one of the Armed Forces. Each such report shall include a description of all technology

Science and technology.

base projects that could contribute to the fielding of standoff weapons.

(b) Unified Commanders Reports on Standoff Munitions.—(1) In the first report under subsection (a) submitted after the enactment of this Act, the Secretary of Defense shall include the reports of the unified commanders submitted to the Secretary pursuant to paragraph (2).

(2) The Secretary shall require the commander of each unified combatant command to submit to the Secretary a report on the results of the study conducted by the commander pursuant to subsection (c). Such reports shall be submitted to the Secretary at such time as specified by the Secretary so that they may be included in the report of the Secretary referred to in paragraph (1).

(c) Study of Standoff Munitions by Commanders of Unified Combatant Commands.—The Secretary of Defense shall require the commander of each unified combatant command to conduct a study of the status of forces assigned to his command in terms of the standoff munitions available to those forces and the survivability of the launching platforms in the absence of standoff munitions. Each such study shall include the following:

(1) The commander's evaluation of the threat posed to combat aircraft under his command by potential enemy forces in his region of responsibility and the extent to which those aircraft are vulnerable to attack.

(2) The commander's evaluation of the current capabilities of those aircraft that are programmed to be assigned to the commander in the event of conflict in his region of responsibility to carry out standoff attacks.

(3) The commander's evaluation of the adequacy of the inventories of munitions in general, and of standoff munitions in particular, in the component forces that would be assigned to the commander in time of war.

(4) The commander's evaluation of the extent to which the survivability of combat aircraft is threatened by the absence of standoff munitions and a statement of the priority which the commander would give to providing standoff munitions for such aircraft to improve their survivability.

(5) Identification of those standoff munitions programs the commander considers most promising for the improvement of the survivability of combat aircraft.

Military Construction Authorization Act for Fiscal Years 1990 and 1991.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act for Fiscal Years 1990 and 1991".

TITLE XXI—ARMY

Part A—Fiscal Year 1990

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $2,300,000.
Fort McClellan, $2,750,000.
Redstone Arsenal, $18,390,000.
Fort Rucker, $3,600,000.

ALASKA

Fort Richardson, $3,350,000.
Fort Wainwright, $14,800,000.

ARIZONA

Fort Huachuca, $9,900,000.
Yuma Proving Ground, $11,400,000.

CALIFORNIA

Fort Irwin, $4,950,000.
Fort Ord, $2,450,000.
Sacramento Army Depot, $3,900,000.

COLORADO

Fitzsimons Army Medical Center, $2,100,000.
Fort Carson, $4,700,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $11,000,000.

FLORIDA

Key West Naval Air Station, $6,100,000.

GEORGIA

Fort Benning, $12,146,000.
Fort Gordon, $4,000,000.
Fort Stewart, $5,200,000.

HAWAII

Fort Shafter, $9,300,000.
Schofield Barracks, $10,000,000.

ILLINOIS

Melvin Price Support Center, $3,750,000.
Savanna Army Depot, $850,000.

INDIANA

Fort Benjamin Harrison, $359,000.

KANSAS

Fort Leavenworth, $3,000,000.
Fort Riley, $12,680,000.

KENTUCKY

Fort Campbell, $30,450,000.
Fort Knox, $13,400,000.

LOUISIANA

Fort Polk, $23,350,000.

MARYLAND

Aberdeen Proving Ground, $1,700,000.
Fort Detrick, $1,300,000.
Fort Meade, $6,200,000.
Fort Ritchie, $630,000.

MASSACHUSETTS

Fort Devens, $3,550,000.

MISSOURI

Fort Leonard Wood, $10,450,000.

NEW JERSEY

Fort Monmouth, $8,600,000.
Picatinny Arsenal, $11,800,000.

NEW YORK

Fort Drum, $70,600,000.

NORTH CAROLINA

Fort Bragg, $65,300,000.

OKLAHOMA

Fort Sill, $13,170,000.
McAlester Army Ammunition Plant, $2,200,000.

PENNSYLVANIA

New Cumberland Army Depot, $14,000,000.

SOUTH CAROLINA

Fort Jackson, $23,000,000.

TEXAS

Corpus Christi Army Depot, $5,200,000.
Fort Bliss, $16,600,000.
Fort Hood, $21,400,000.

UTAH

Dugway Proving Ground, $2,400,000.

VIRGINIA

Fort Belvoir, $23,000,000.
Fort Lee, $10,050,000.
Fort Monroe, $1,100,000.
Fort Story, $3,350,000.

WASHINGTON

Fort Lewis, $770,000.

VARIOUS LOCATIONS

Classified Location, $3,400,000.
Classified Location, $600,000.
Classified Location, $3,900,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Ansbach, $2,900,000.
Augsburg, $600,000.
Grafenwoehr, $6,500,000.
Hanau, $14,800,000.
Hohenfels, $4,950,000.
Mainz, $26,400,000.
Stuttgart, $9,400,000.
Wuerzburg, $12,000,000.
Various locations, $4,150,000.

KOREA

H-220 Heliport, $4,050,000.

KWAJALEIN ATOLL

Kwajalein, $9,500,000.

PUERTO RICO

Fort Buchanan, $690,000.

TURKEY

Location 276, $1,950,000.

CLASSIFIED LOCATIONS

Classified locations, $6,100,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition), using amounts appropriated pursuant to section

2104(a)(6)(A), at the following installations and locations in the number of units, and in the amounts, shown for each installation:

Fort Rucker, Alabama, two units, $400,000.

Helemano, Hawaii, ninety units, $10,322,000.

Hickam Air Force Base, Hawaii, twenty units, $2,500,000.

Kaneohe, Hawaii, forty units, $4,700,000.

Hawaii, various locations, one hundred and eighty units, $18,000,000.

Fort Lee, Virginia, one unit, $210,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $1,349,000.

(c) WAIVER OF SPACE LIMITATIONS.—(1) The family housing units authorized by subsection (a) to be constructed at Fort Rucker, Alabama, and at Fort Lee, Virginia, shall be constructed for assignment to general officers, who hold positions as commanders or who hold special command positions (as designated by the Secretary of Defense), and notwithstanding section 2826 of title 10, United States Code, the units may be constructed with the net floor area of not more than 3,000 square feet.

(2) For the purpose of this subsection, the term "net floor area" has the meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(6)(A), improve existing military family housing in an amount not to exceed $36,329,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may—

(1) carry out projects to improve existing military family housing units, in the number of units shown and in the amount shown, at—

(A) Fort Leavenworth, Kansas, one unit, $95,900, of which $86,900 is for concurrent repairs; and

(B) Fort Monmouth, New Jersey, one hundred and twenty-four units, $6,500,000; and

(2) carry out projects to improve four units at Fort Sill, Oklahoma, the improvement of which was authorized by the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), in the amount of $178,088.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,239,165,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $554,445,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $103,990,000.

(3) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(4) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $11,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United Sates Code, $74,420,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $73,810,000; and

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,377,400,000, of which not more than $319,142,000 may be obligated or expended for the leasing of military family housing worldwide.

(7) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1514), authorization for the following projects authorized in section 101 of that Act, as extended by section 2107(b) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4020), section 2105(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1184), and section 2106(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456; 102 Stat. 2092) shall remain in effect until October 1, 1990, or the date of enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 981), authorizations for the following projects authorized in sections 101 and 102 of that Act, as extended by section 2105(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 99-180; 101 Stat. 1185) and section 2106(b) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2092), shall remain in effect until October 1, 1990, or the date of enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(2) Family housing, new construction, six units, in the amount of $596,000 at Fort Myer, Virginia.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act, as extended by section 2106(c) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2092), shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.

(2) Family housing, new construction, forty units in the amount of $4,100,000 at Crailsheim, Germany.

(d) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorizations for the following projects authorized in sections 2101 and 2102 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Child development center in the amount of $1,050,000 at Rheinberg, Germany.

(2) Training exercise facility in the amount of $5,900,000 at Einsiedlerhof, Germany.

(3) Operations building modifications in the amount of $5,400,000 at Stuttgart, Germany.

(4) Hardstand/tactical equipment shop in the amount of $2,250,000 at Wiesbaden, Germany.

(5) Family housing, new construction, twenty-five units, in the amount of $2,200,000 at Fort A.P. Hill, Virginia.

(6) Family housing, new construction, one hundred six units, in the amount of $11,200,000 at Bamberg, Germany.

(7) Family housing, new construction, one hundred fifty-two units, in the amount of $12,600,000 at Baumholder, Germany.

(8) Troop support facility upgrade in the amount of $4,150,000 in Honduras.

(9) Wartime host nation support in the amount of $4,500,000, in Europe, various locations.

PART B—FISCAL YEAR 1991

SEC. 2121. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $34,300,000.

ARKANSAS

Pine Bluff Arsenal, $17,100,000.

OREGON

Umatilla Depot Activity, $45,500,000.

SEC. 2122. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,803,180,000 as follows:

(1) For military construction projects inside the United States authorized by section 2121, $96,900,000.

(2) For the construction of the Central Distribution Center, Phase III, Red River Army Depot, Texas, as authorized by section 2101(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), $39,000,000.

(3) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $96,530,000.

(5) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,558,750,000, of which not more than $453,884,000 may be obligated or expended for the leasing of military family housing worldwide.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2121 of this Act may not exceed the total amount authorized to be appropriated under subsection (a)(1).

TITLE XXII—NAVY

Part A—Fiscal Year 1990

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Mobile, Navy Station, $3,965,000.

ALASKA

Adak, Naval Air Station, $18,870,000.

ARIZONA

Yuma, Marine Corps Air Station, $900,000.

CALIFORNIA

Camp Pendleton, Marine Corps Air Station, $2,100,000.
Camp Pendleton, Marine Corps Base, $57,600,000.
China Lake, Naval Weapons Center, $17,500,000.
Concord, Naval Weapons Station, $5,640,000.
Coronado, Naval Amphibious Base, $7,770,000.
Coronado, Surface Warfare Officers School Command Detachment, $4,360,000.
El Centro, Naval Air Facility, $7,200,000.
Lemoore, Naval Air Station, $2,100,000.
Moffett Field, Naval Air Station, $1,000,000.
Monterey, Fleet Numerical Oceanography Center, $6,760,000.
Monterey, Naval Post Graduate School, $18,690,000.
North Island, Naval Air Station, $6,160,000.
San Diego, Fleet Anti-Submarine Warfare Training Center, Pacific, $820,000.
San Diego, Fleet Combat Training Center, Pacific, $3,670,000.
San Diego, Fleet Intelligence Training Center, Pacific, $2,500,000.
San Diego, Fleet Training Center, $12,800,000.
San Diego, Integrated Combat Systems Test Facility, $4,100,000.
San Diego, Marine Corps Recruit Depot, $3,070,000.
San Diego, Naval Ocean Systems Center, $1,300,000.
San Diego, Naval Station, $1,000,000.
San Diego, Naval Submarine Base, $10,800,000.
San Diego, Naval Training Center, $7,150,000.
San Diego, Naval Public Works Center, $4,400,000.
San Francisco, Navy Public Works Center, $3,910,000.
Seal Beach, Naval Weapons Station, $9,000,000.
Tustin, Marine Corps Air Station, $2,990,000.
Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,140,000.
Vallejo, Mare Island Naval Shipyard, $9,000,000.

CONNECTICUT

New London, Naval Submarine Base, $24,250,000.
New London, Naval Submarine School, $8,200,000.
New London, Naval Underwater Systems Center, $12,600,000.

DISTRICT OF COLUMBIA

Washington, Commandant, Naval District, $420,000.
Washington, Naval Observatory, $2,500,000.

FLORIDA

Cecil Field, Naval Air Station, $1,970,000.
Jacksonville, Naval Hospital, $2,080,000.
Mayport, Naval Station, $20,000,000.
Orlando, Naval Training Center, $18,400,000.
Panama City, Naval Diving and Salvage Training Center, $4,300,000.
Panama City, Naval Experimental Diving Unit, $2,900,000.
Pensacola, Navy Public Works Center, $2,100,000.

GEORGIA

Albany, Marine Corps Logistics Base, $4,550,000.
Athens, Navy Supply Corps School, $1,000,000.
Kings Bay, Naval Submarine Base, $66,689,000.

HAWAII

Kaneohe Bay, Marine Corps Air Station, $13,150,000.
Lualualei, Naval Magazine, $4,600,000.
Pearl Harbor, Naval Submarine Base, $18,600,000.
Pearl Harbor, Naval Submarine Training Center, Pacific, $5,550,000.
Pearl Harbor, Navy Public Works Center, $750,000.
Wahiawa, Naval Communication Area Master Station Eastern Pacific, $8,000,000.

ILLINOIS

Great Lakes, Naval Hospital, $12,270,000.
Great Lakes, Naval Training Center, $15,900,000.

INDIANA

Crane, Naval Weapons Support Center, $4,000,000.
Indianapolis, Naval Avionics Center, $8,000,000.

MAINE

Brunswick, Naval Air Station, $1,000,000.
Brunswick, Naval Branch Medical Clinic, $2,650,000.
Kittery, Portsmouth Naval Shipyard, $1,000,000.

MARYLAND

Indian Head, Naval Explosive Ordnance Disposal Technology Center, $7,700,000.
Indian Head, Naval Ordnance Station, $10,670,000.
Patuxent River, Naval Air Test Center, $17,000,000.
St. Inigoes, Naval Electronic Systems Engineering Activity, $2,950,000.

MISSISSIPPI

Meridian, Naval Air Station, $11,800,000.
Pascagoula, Naval Station, $2,220,000.

MISSOURI

Kansas City, Marine Corps Support Activity, $10,000,000.

NEVADA

Fallon, Naval Air Station, $1,000,000.

NEW JERSEY

Bayonne, Navy Publications and Printing Service Detachment Office, $1,000,000.
Earle, Naval Weapons Station, $14,270,000.

NEW MEXICO

Elephant Butte, Naval Space Surveillance Field Station, $4,700,000.

NEW YORK

New York, Naval Station, $25,640,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $21,210,000.
Cherry Point, Marine Corps Air Station, $10,750,000.
New River, Marine Corps Air Station, $21,100,000.

OKLAHOMA

Tinker Air Force Base, Naval Air Detachment, $21,500,000.

PENNSYLVANIA

Philadelphia, Naval Shipyard, $10,000,000.

RHODE ISLAND

Newport, Naval Education and Training Center, $8,290,000.

SOUTH CAROLINA

Beaufort, Marine Corps Air Station, $4,920,000.
Charleston, Naval Supply Center, $700,000.
Charleston, Naval Weapons Station, $4,600,000.

TENNESSEE

Memphis, Naval Air Station, $10,000,000.

TEXAS

Ingleside, Naval Station, $19,720,000.
Lackland Air Force Base, Naval Technical Training Center Detachment, $4,500,000.

VIRGINIA

Chesapeake, Naval Security Group Activity, Northwest, $1,300,000.
Dahlgren, Naval Surface Warfare Center, $1,000,000.
Dam Neck, Marine Environmental Systems Facility, $8,000,000.
Little Creek, Naval Amphibious Base, $5,200,000.
Norfolk, Naval Air Station, $4,400,000.

Norfolk, Naval Eastern Oceanography Center, $680,000.
Norfolk, Naval Public Works Center, $332,000.
Norfolk, Naval Supply Center, $6,500,000.
Oceana, Naval Air Station, $12,555,000.
Portsmouth, Norfolk Naval Shipyard, $9,700,000.
Quantico, Marine Corps Combat Development Command, $3,450,000.
Williamsburg, Cheatham Annex, Naval Supply Center, $18,500,000.
Yorktown, Naval Weapons Station, $21,420,000.

WASHINGTON

Bremerton, Naval Hospital, $1,000,000.
Bremerton, Puget Sound Naval Shipyard, $19,900,000.
Bremerton, Puget Sound Naval Supply Center, $690,000.
Everett, Naval Station, $11,200,000.
Keyport, Naval Undersea Warfare Engineering Station, $12,250,000.
Oso, Jim Creek Naval Radio Station, $1,200,000.

VARIOUS LOCATIONS

Land acquisition, $22,300,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ASCENSION ISLAND

Naval Communication Detachment, $3,500,000.

AUSTRALIA

Exmouth, Harold E. Holt Naval Communication Station, $610,000.

GUAM

Camp Covington, Mobile Construction Battalion, $4,300,000.
Navy Public Works Center, $4,150,000.

ICELAND

Keflavik, Naval Air Station, $7,500,000.
Keflavik, Naval Communication Station, $8,450,000.

ITALY

Naples, Naval Support Activity, $46,600,000.

PUERTO RICO

Roosevelt Roads, Naval Communication Station, $1,300,000.

SPAIN

Rota, Naval Station, $1,900,000.

UNITED KINGDOM

Edzell, Scotland, Naval Security Group Activity, $5,820,000.

VARIOUS LOCATIONS

Classified location, $5,800,000.
Host Nation Infrastructure Support, $1,000,000.

SEC. 2202. FAMILY HOUSING

(a) Construction and Acquisition.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2204(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

Camp Pendleton, Marine Corps Base, California, two hundred and ninety-five units, $25,150,000.

El Toro, Marine Corps Air Station, California, two hundred units, $15,000,000.

Moffett Field, Naval Air Station, California, seventy-four units, $6,600,000.

San Francisco, Navy Public Works Center, California, three hundred and forty-four units, $28,350,000.

Glenview Naval Air Station, Illinois, one hundred forty units, $15,300,000.

Thurmont, Naval Support Facility, Maryland, eleven units, $1,160,000.

Guantanamo, Naval Station, Cuba, two hundred and fifty-four units, $31,669,000.

Keflavik, Naval Air Station, Iceland, one hundred twelve units, $23,213,000.

(b) Planning and Design.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2204(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $3,100,000.

(c) Project.—(1) The Secretary of the Navy may construct one family housing unit, at a cost not to exceed $140,000, on the Naval Air Station at Kingsville, Texas, in accordance with applicable provisions of law.

(2) Funds appropriated to the Department of the Navy for any fiscal year before fiscal year 1991 for military family housing projects that remain available, as savings, for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, to carry out paragraph (1).

Termination date.

(3) The authority to carry out this subsection shall expire on October 1, 1994.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) In General.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2204(a)(6)(A), improve existing military family housing units in the amount of $41,748,000.

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units, and in the amount, shown for each installation:

Long Beach, Naval Station, California, forty-four units, $2,208,200.

San Diego, Navy Public Works Center, California, one unit, $79,900.

Great Lakes, Navy Public Works Center, Illinois, two hundred and sixty-two units, $17,198,100.

Lakehurst, Naval Air Engineering Center, New Jersey, thirty-two units, $1,946,400.

Lakehurst, Naval Air Engineering Center, New Jersey, one unit, $80,100.

New York, Naval Station, New York, ten units, $842,000.

New York, Naval Station, New York, ten units, $719,100.

Cherry Point, Marine Corps Air Station, North Carolina, two hundred and fourteen units, $13,398,000.

Newport, Naval Education and Training Center, Rhode Island, two hundred and twenty units, $13,700,000.

Bangor, Naval Submarine Base, Washington, one hundred units, $5,844,200.

Guantanamo Bay, Naval Station, Cuba, one unit, $104,700.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,962,935,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $915,511,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $90,930,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $84,970,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $5,810,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $191,290,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $660,424,000, of which not more than $40,800,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorizations for the following projects authorized in section 2121 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Physical security improvements in the amount of $2,460,000 at Naval Air Station, Sigonella, Italy.

(2) Cold-iron utilities support in the amount of $7,480,000 at Naval Support Office, La Maddalena, Italy.

(3) Command, Control, Communications and Intelligence Complex in the amount of $19,400,000 at Naval Support Activity, Naples, Italy.

SEC. 2206. STUDY AND SOLICITATION OF BIDS FOR OFFICE SPACE

Virginia.

(a) Study.—The Secretary of the Navy shall conduct a study to determine the location or locations in the State of Virginia at which the Department of the Navy can most efficiently and effectively carry out the operations it currently performs in such State within the National Capital Region.

(b) Report.—The Secretary shall, within 90 days after the date of the enactment of this Act, transmit a report to the Committees on Armed Services of the Senate and the House of Representatives containing the findings and conclusions of such study.

(c) Solicitation of Bids.—After the 30-day period beginning on the date on which the report described in subsection (b) is transmitted, the Administrator of General Services may issue one or more solicitations of bids, in accordance with applicable law, for office space in the State of Virginia for use by the Department of the Navy in carrying out the operations of the Department currently being performed in such State within the National Capital Region.

SEC. 2207. COMMUNITY SUPPORT CENTER, MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) Project Authorization.—(1) Section 2201(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456; 102 Stat. 2093), is amended by striking out "$10,990,000" after "Marine Corps Air Station, Tustin," under the heading "California" and inserting in lieu thereof "$12,036,000".

(2) Section 2202(a) of such Act (102 Stat. 2097) is amended by striking out "and eighty mobile home spaces, $10,120,000" in the item relating to Marine Corps Air Station, El Toro, California, and inserting in lieu thereof ", $9,074,000".

(b) Authorization of Appropriations.—(1) Section 2205(a)(1) of such Act (102 Stat. 2099) is amended by striking out "$1,296,450,000" and inserting in lieu thereof "$1,297,496,000".

(2) Section 2205(a)(6)(A) of such Act (102 Stat. 2099) is amended by striking out "$250,770,000" and inserting in lieu thereof "$249,724,000".

PART B—FISCAL YEAR 1991

SEC. 2221. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ARIZONA

Yuma, Marine Corps Air Station, $3,000,000.

CALIFORNIA

Bridgeport, Marine Corps Mountain Warfare Training Center, California, $8,000,000.

Twentynine Palms, Marine Corps Air-Ground Combat Center, $3,600,000.

FLORIDA

Orlando, Naval Training Center, $17,950,000.

GEORGIA

Kings Bay, Naval Submarine Base, $75,231,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $3,000,000.

Cherry Point, Marine Corps Air Station, $1,050,000.

TEXAS

Lackland Air Force Base, Naval Technical Training Center Detachment, $11,800,000.

VIRGINIA

Dam Neck, Marine Environmental Systems Facility, $8,000,000.

Little Creek, Naval Amphibious Base, $12,400,000.

WASHINGTON

Everett, Naval Station, $22,150,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ICELAND

Keflavik, Naval Air Station, $1,030,000.

SEC. 2222. FAMILY HOUSING

The Secretary of the Navy may, using amounts appropriated pursuant to section 2223(a)(5)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units, and in the amount, shown for each installation:

New York, Naval Station, New York, one hundred fifty units, $19,600,000.

Keflavik, Naval Air Station, Iceland, one hundred twelve units, $27,200,000.

SEC. 2223. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $986,410,000 as follows:

(1) For military construction projects inside the United States authorized by section 2221(a), $166,181,000.

(2) For military construction projects outside the United States authorized by section 2221(b), $1,030,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $81,999,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $46,800,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $674,900,000, of which not more than $66,421,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2221 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE XXIII—AIR FORCE

Part A—Fiscal Year 1990

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $12,100,000.

Maxwell Air Force Base, $1,520,000.

ALASKA

Clear Air Force Station, $5,000,000.

Eielson Air Force Base, $21,000,000.

Elmendorf Air Force Base, $2,400,000.
King Salmon Airport, $8,000,000.
Shemya Air Force Base, $22,700,000.

ARIZONA

Davis-Monthan Air Force Base, $8,200,000.
Luke Air Force Base, $3,970,000.
Williams Air Force Base, $1,850,000.

ARKANSAS

Ira Eaker Air Force Base, $4,050,000.

CALIFORNIA

Beale Air Force Base, $13,472,000.
Castle Air Force Base, $3,900,000.
Edwards Air Force Base, $12,400,000.
McClellan Air Force Base, $27,730,000.
Onizuka Air Force Station, $14,800,000.
Travis Air Force Base, $9,000,000.
Vandenberg Air Force Base, $13,550,000.

COLORADO

Lowry Air Force Base, $21,250,000.

DELAWARE

Dover Air Force Base, $8,300,000.

FLORIDA

Cape Canaveral Air Force Station, $89,000,000.
Eglin Air Force Base, $12,100,000.
Eglin Air Force Base, Auxiliary Field 9, $21,900,000.
Homestead Air Force Base, $7,350,000.
MacDill Air Force Base, $4,490,000.
Patrick Air Force Base, $3,800,000.
Tyndall Air Force Base, $8,500,000.

GEORGIA

Robins Air Force Base, $33,350,000.

HAWAII

Hickam Air Force Base, $530,000.

ILLINOIS

Scott Air Force Base, $8,400,000.

INDIANA

Grissom Air Force Base, $6,800,000.

KANSAS

McConnell Air Force Base, $5,200,000.

LOUISIANA

Barksdale Air Force Base, $7,700,000.
England Air Force Base, $10,300,000.

MAINE

Loring Air Force Base, $8,500,000.

MARYLAND

Andrews Air Force Base, $5,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $5,600,000.

MICHIGAN

K.I. Sawyer Air Force Base, $4,300,000.

MISSISSIPPI

Columbus Air Force Base, $1,200,000.

MISSOURI

Whiteman Air Force Base, $72,500,000.

MONTANA

Malmstrom Air Force Base, $32,100,000.

NEBRASKA

Offutt Air Force Base, $1,150,000.

NEVADA

Nellis Air Force Base, $4,800,000.

NEW JERSEY

McGuire Air Force Base, $4,900,000.

NEW MEXICO

Holloman Air Force Base, $17,350,000.
Kirtland Air Force Base, $18,350,000.

NEW YORK

Griffis Air Force Base, $7,400,000.
Plattsburgh Air Force Base, $9,900,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $4,500,000.

NORTH DAKOTA

Grand Forks Air Force Base, $1,900,000.

OHIO

Newark Air Force Base, $2,980,000.
Wright Patterson Air Force Base, $11,760,000.

OKLAHOMA

Altus Air Force Base, $5,200,000.
Tinker Air Force Base, $56,800,000.

SOUTH CAROLINA

Charleston Air Force Base, $4,650,000.
Myrtle Beach Air Force Base, $2,350,000.
Shaw Air Force Base, $5,700,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $11,350,000.

TEXAS

Bergstrom Air Force Base, $2,400,000.
Carswell Air Force Base, $650,000.
Goodfellow Air Force Base, $3,300,000.
Kelly Air Force Base, $17,930,000.
Lackland Air Force Base, $34,250,000.
Lackland Training Annex, $1,994,000.
Laughlin Air Force Base, $5,350,000.
Randolph Air Force Base, $630,000.
Reese Air Force Base, $4,630,000.

UTAH

Hill Air Force Base, $16,950,000.

VIRGINIA

Langley Air Force Base, $3,300,000.

WASHINGTON

Fairchild Air Force Base, $14,200,000.

WYOMING

F. E. Warren Air Force Base, $104,850,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

CANADA

Various Locations, $24,000,000.

GERMANY

Hahn Air Base, $4,120,000.
Sembach Air Base, $1,250,000.
Spangdahlem Air Base, $1,250,000.

Zweibrucken Air Base, $6,100,000.

GUAM

Andersen Air Force Base, $6,500,000.

ICELAND

Naval Air Station, Keflavik, $7,400,000.

ITALY

Aviano Air Base, $2,250,000.
San Vito Air Station, $2,750,000.

KOREA

Kunsan Air Base, $7,900,000.

OMAN

Seeb, $2,200,000.
Thumrait, $23,600,000.

PORTUGAL

Lajes Field, $10,000,000.

TURKEY

Balikesir Radio Relay Site, $3,600,000.
Erhac Air Base, $2,750,000.
Incirlik Air Base, $1,100,000.

UNITED KINGDOM

Bovingdon Radio Relay Site, $400,000.
RAF Alconbury, $1,300,000.
RAF Barford St. John, $490,000.
RAF Bentwaters, $2,450,000.
RAF Christmas Common Radio Relay Site, $210,000.
RAF Fairford, $1,350,000.
RAF Mildenhall, $1,650,000.
RAF Upper Heyford, $5,350,000.

VARIOUS LOCATIONS

Classified location, $740,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units, and in the amount, shown for each installation:

Kelly Air Force Base, Texas, eleven units, $1,619,000.
Ramstein Air Base, Germany, two hundred units, $18,722,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,000,000.

SEC. 2303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS

(a) In General.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), improve existing military family housing units in an amount not to exceed $17[illegible],349,000.

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Maxwell Air Force Base, Alabama, eight units, $357,000; eight units, $800,000; one unit, $108,000; thirty-two units, $1,548,000.

Elmendorf Air Force Base, Alaska, eighty-eight units, $9,578,000; forty units, $4,451,000.

Davis-Monthan Air Force Base, Arizona, five units, $200,000.

Travis Air Force Base, California, one hundred forty-two units, $7,691,000.

Peterson Air Force Base, Colorado, thirty-two units, $1,438,000.

Bolling Air Force Base, District of Columbia, forty units, $1,683,000.

Tyndall Air Force Base, Florida, forty units, $2,441,000.

Scott Air Force Base, Illinois, four units, $250,000; eighty units, $4,076,000.

England Air Force Base, Louisiana, one hundred one units, $4,208,000.

Whiteman Air Force Base, Missouri, fifteen units, $970,000.

Nellis Air Force Base, Nevada, thirty-two units, $1,727,000.

Holloman Air Force Base, New Mexico, one hundred twenty-three units, $5,710,000; one unit, $47,000.

Bergstrom Air Force Base, Texas, two units, $149,000.

Carswell Air Force Base, Texas, one hundred nineteen units, $5,432,000.

Kelly Air Force Base, Texas, seventy-nine units, $3,650,000.

Randolph Air Force Base, Texas, one hundred twenty-four units, $4,136,000; one unit, $78,000.

Langley Air Force Base, Virginia, eighty-six units, $5,398,000.

Fairchild Air Force Base, Washington, two hundred thirty units, $12,162,000.

Ramstein Air Base, Germany, one unit, $137,000; twenty-four units, $2,180,000; thirty-eight units, $2,681,000.

Spangdahlem Air Base, Germany, four units, $302,000.

Andersen Air Base, Guam, two hundred units, $17,817,000.

RAF Alconbury, United Kingdom, one unit, $55,000.

RAF Bentwaters, United Kingdom, eighty-three units, $4,610,000.

RAF Chicksands, United Kingdom, thirty-four units, $3,027,000.

RAF Lakenheath, United Kingdom, fourteen units, $1,153,000; sixty units, $3,408,000.

RAF Mildenhall, United Kingdom, two units, $89,000.

(c) Waiver of Space Limitations for Family Housing Units.—(1) The Secretary of the Air Force may carry out improvement projects to add to and alter existing family housing units and, notwithstanding section 2826(a) of title 10, United States Code, to—

(A) increase the net floor area of one family housing unit at Ramstein Air Base, Germany, to not more than 3,045 square feet;

(B) increase the net floor area of four family housing units at Scott Air Force Base, Illinois, to not more than 2,470 square feet; and

(C) increase the net floor area of two family housing units at Hill Air Force Base, Utah, to not more than 2,315 square feet.

(2) The Secretary of the Air Force may, notwithstanding section 2826(a) of title 10, United States Code, carry out new construction projects to build five family housing units at Kelly Air Force Base, Texas, to not more than 3,000 square feet.

(3) For purposes of this subsection, the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,193,638,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $945,836,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $120,710,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2101), $66,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $7,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $106,094,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $3,000,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $201,690,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $743,308,000, of which not more than $96,000,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) Authorized Projects.—(1) The Secretary of the Air Force may use not more than $248,900 of the amount appropriated pursuant to the authorization in subsection (a) to acquire a depot operations logistics facility at Tinker Air Force Base, Oklahoma.

(2) The Secretary of the Air Force may provide not more than $7,250,000 of the amount appropriated pursuant to the authorization in subsection (a)(1) to the Douglas School District, South Dakota, for the construction of a middle school primarily for the dependents of Armed Forces personnel assigned to duty at Ellsworth Air Base, South Dakota.

SEC. 2305. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of Certain Fiscal Year 1986 Project.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 982), authorization for the following project authorized in section 301 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

GEODSS Site 5, Portugal, Composite Support Facility in the amount of $2,250,000 and Spacetrack Observation Facility in the amount of $12,400,000.

(b) Extension of Authorization of Certain Fiscal Year 1987 Project.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), authorization for the following project authorized in section 2301 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

KC-135 CPT Simulator Facility in the amount of $760,000 at Beale Air Force Base, California.

(c) Extension of Authorization of Certain Fiscal Year 1988 Projects.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorization for the following projects authorized in sections 2131 and 2132 of that Act shall remain in effect until October 1, 1990, or the date of the enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $1,150,000 at Loring Air Force Base, Maine.

(2) Thirty-four family housing units in the amount of $2,530,000 at Holbrook, Arizona.

SEC. 2306. LUKE AIR FORCE BASE, ARIZONA

Section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2101) is amended—

(1) by striking out "Williams Air Force Base, $11,130,000." under the heading "Arizona" and inserting in lieu thereof "Williams Air Force Base, $9,230,000."; and

(2) by striking out "Luke Air Force Base, $4,550,000." under the heading "Arizona" and inserting in lieu thereof "Luke Air Force Base, $6,450,000.".

SEC. 2307. ARNOLD ENGINEERING DEVELOPMENT CENTER, TENNESSEE

(a) PROJECT AMOUNT.—Section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2101), is amended by striking out "Arnold Engineering Development Center, $213,800,000." under the heading "Tennessee" and inserting in lieu thereof "Arnold Engineering Development Center, $256,800,000.".

(b) TITLE TOTAL.—Section 2304(b)(2) of such Act (102 Stat. 2108) is amended by striking out "$133,000,000" and inserting in lieu thereof "$176,000,000".

SEC. 2308. REFERENCE TO LIMITATION ON OBLIGATION OF FUNDS FOR MX RAIL GARRISON PROGRAM

Limitations with respect to the obligation of funds for construction in connection with the the MX Rail Garrison program are set forth in section 231.

PART B—FISCAL YEAR 1991

SEC. 2321. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALASKA

Shemya Air Force Base, $48,200,000.

COLORADO

Falcon Air Force Station, $2,000,000.
Peterson Air Force Base, $17,750,000.

OKLAHOMA

Altus Air Force Base, $7,900,000.

SOUTH CAROLINA

Charleston Air Force Base, $8,740,000.

TEXAS

Lackland Air Force Base, $22,550,000.

UTAH

Hill Air Force Base, $2,350,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Hahn Air Base, $7,200,000.

WORLDWIDE CLASSIFIED

Classified locations, $5,910,000.

SEC. 2322. FAMILY HOUSING

The Secretary of the Air Force may, using amounts appropriated pursuant to section 2323(a)(6)(A), construct or acquire family housing units (including land acquisition) at the following installation:

Malmstrom Air Force Base, Montana, one unit, $180,000.

SEC. 2323. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,150,836,000, as follows:

(1) For military construction projects inside the United States authorized by section 2321(a), $109,490,000.

(2) For military construction projects outside the United States authorized by section 2321(b), $13,110,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2101), $66,300,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $12,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $114,756,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $180,000; and

(B) for support of military family housing (including functions described in section 2833 of title 10, United States Code), $835,000,000, of which not more than $138,632,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2321 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE XXIV—DEFENSE AGENCIES

Part A—Fiscal Year 1990

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE LOGISTICS AGENCY

Defense Depot, Tracy, California, $24,000,000.

Defense Reutilization and Marketing Office, Eglin Air Force Base, Florida, $2,750,000.

Defense Fuel Support Point, Searsport, Maine, $2,700,000.

Defense Construction Supply Center, Columbus, Ohio, $26,600,000.

Defense Personnel Support Center, Philadelphia, Pennsylvania, $3,800,000.

Defense General Supply Center, Richmond, Virginia, $6,066,000.

Defense Fuel Support Point, Manchester, Washington, $22,600,000.

DEFENSE MEDICAL FACILITIES OFFICE

Maxwell Air Force Base, Alabama, $1,600,000.

Naval Air Station, Mobile, Alabama, $3,000,000.

Naval Air Station, Adak, Alaska, $18,000,000.

Marine Corps Air Station, Twentynine Palms, California, $38,000,000.

Fitzsimons Army Medical Center, Colorado, $5,200,000.

Hurlburt Field, Florida, $6,000,000.

Naval Air Station, Jacksonville, Florida, $2,400,000.

Patrick Air Force Base, Florida, $2,700,000.

Andrews Air Force Base, Maryland, $2,900,000.

Naval Station, Pascagoula, Mississippi, $2,548,000.

Nellis Air Force Base, Nevada, $62,000,000.

Lackland Air Force Base, Texas, $6,000,000.

Naval Station, Ingleside, Texas, $2,300,000.

Portsmouth Naval Hospital, Virginia, $330,000,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $900,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $21,444,000.

OFFICE OF THE SECRETARY OF DEFENSE

The Pentagon, Arlington, Virginia, $3,500,000.

Classified Location, $4,500,000.

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Bethesda, Maryland, $600,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Nellis Air Force Base, Nevada, $6,542,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE MEDICAL FACILITIES OFFICE

Camp Carroll, Korea, $1,500,000.
Camp Garry Owen, Korea, $800,000.

DEFENSE NUCLEAR AGENCY

Johnston Atoll, $6,168,000.

DEPARTMENT OF DEFENSE SCHOOLS

Naval Air Station, Bermuda, $4,810,000.
Augsburg, Germany, $6,300,000.
Frankfurt, Germany, $7,101,000.
Grafenwoehr, Germany, $4,186,000.
Hohenfels, Germany, $17,079,000.
Royal Air Force, Bicester, United Kingdom, $6,275,000.
Royal Air Force, Upwood, United Kingdom, $4,175,000.
Various Locations, $6,600,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $1,155,000.
Roosevelt Roads, Puerto Rico, $6,541,000.

NATIONAL SECURITY AGENCY

Classified Location, $23,000,000.

SEC. 2402. FAMILY HOUSING

Classified information.

The Secretary of Defense may, using amounts appropriated pursuant to section 2405(a)(10)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2405(a)(10)(A), improve existing military family housing units in an amount not to exceed $200,000.

SEC. 2404. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4037) is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, not more than $5,000,000 appropriated for fiscal year 1988, not more than $9,300,000 appropriated for fiscal year 1989, and not more than $11,000,000 appropriated for fiscal year 1990, carry out military construction projects not otherwise authorized by law for conforming storage facilities.".

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $562,720,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $235,150,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $95,690,000.

(3) For military construction projects at Fort Sill, Oklahoma, as authorized by section 2401(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2109), $27,000,000.

(4) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), $53,000,000.

(5) For military construction projects at Fort Lewis, Washington, authorized by section 101 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1495), $16,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $13,100,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $80,480,000.

(9) For conforming storage facilities construction under the authority of section 2404 of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4037), $11,000,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $600,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $20,700,000, of which not more than $17,825,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraph (1) and (2) of subsection (a);

(2) $321,500,000 (the balance of the amount authorized under section 2401(a) for the construction of a medical facility at Portsmouth Naval Hospital, Virginia); and

(3) $52,000,000 (the balance of the amount authorized by section 2401(a) for the construction of a hospital at Nellis Air Force Base, Nevada).

SEC. 2406. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

(a) EXTENSION OF CERTAIN 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), the authorization for the Defense Fuel Support Point, Charleston, South Carolina, in the amount of $5,530,000, in section 2401(a) of that Act shall remain in effect until October 1, 1990, or until the date of

enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later.

(b) EXTENSION OF CERTAIN 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorizations for the following projects authorized in section 2141 of that Act shall remain in effect until October 1, 1990, or until the date of enactment of an Act (other than this Act) authorizing funds for military construction for fiscal year 1991, whichever is later:

(1) Fuel Tankage, in the amount of $9,400,000 at Defense Fuel Supply Point, Key West, Florida.

(2) Second Echelon Medical Storage Facility, Iraklion, Greece, $340,000.

(3) Composite Medical Facility, Misawa Air Base, Japan, $4,700,000.

SEC. 2407. MEDICAL FACILITY, FORT SILL, OKLAHOMA

(a) PROJECT AMOUNT.—Section 2401 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2109) is amended in the items listed under the heading "Defense Medical Facilities Office", by striking out "Fort Sill, Oklahoma, $54,000,000." and inserting in lieu thereof "Fort Sill, Oklahoma, $68,000,000.".

(b) TITLE TOTAL.—Section 2407(b)(2) of such Act (102 Stat. 2112) is amended by striking out "$27,000,000" and inserting in lieu thereof "$41,000,000".

PART B—FISCAL YEAR 1991

SEC. 2421. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may acquire real property and may carry out military construction projects in the amount shown for the following installation outside the United States.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $4,200,000.

SEC. 2422. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $456,100,000, as follows:

(1) For military construction projects outside the United States authorized by section 2421, $4,200,000.

(2) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), $84,000,000.

(3) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a), $176,000,000.

(4) For military construction projects at Nellis Air Force Base, Nevada, authorized by section 2401(a), $52,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,200,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $94,400,000.

(8) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $21,300,000, of which not more than $18,135,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2421 may not exceed the total amount authorized to be appropriated under paragraph (1) of subsection (a).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 of this Act and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501 of this Act, in the amount of $424,714,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

PART A—FISCAL YEAR 1990

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1989, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $187,411,000, and

(B) for the Army Reserve, $80,800,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $56,600,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $198,628,000, and

(B) for the Air Force Reserve, $46,200,000.

PART B—FISCAL YEAR 1991

SEC. 2621. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $119,500,000, and

(B) for the Army Reserve, $62,800,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $53,300,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $107,500,000, and

(B) for the Air Force Reserve, $38,500,000.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) IN GENERAL.—Authorizations of military construction projects, land acquisition, family housing projects and facilities, contributions to the NATO Infrastructure Program, and Guard and Reserve projects in titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this subdivision (and authorizations of appropriations therefor) shall be effective only to the extent that appropriations are made for such projects, acquisition, facilities, and contributions during the first session of the One Hundred First Congress.

(b) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS IN CERTAIN CASES.—(1) Except as provided in subsections (a) and (c)(1), all authorizations contained in part A of each of titles XXI, XXII, XXIII, and XXIV and the authorization in title XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later.

(2) Except as provided in subsections (a) and (c)(2), all authorizations contained in part B of each of titles XXI, XXII, XXIII, and XXIV, for military construction projects, land acquisition, and family housing projects and facilities (and authorizations of appropriations therefor) shall expire on October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later.

(c) Exceptions.—(1) The provisions of subsection (b)(1) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later, for military construction projects, land acquisitions, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

(2) The provisions of subsection (b)(2) do not apply to authorizations for military construction projects, land acquisition, and family housing projects and facilities (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later, for military construction projects, land acquisitions, family housing projects and facilities.

TITLE XXVIII—GENERAL PROVISIONS

Part A—Military Construction Program Changes

SEC. 2801. FAMILY HOUSING RENTAL GUARANTEE PROGRAM

Section 802(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note) is amended—

(1) by striking out clause (11) and inserting in lieu thereof the following:

"(11) shall include a provision authorizing the Secretary of the military department concerned, or the Secretary of Transportation with respect to the Coast Guard, to take such action as the Secretary considers appropriate to protect the interests of the United States, including rendering the agreement null and void if, in the opinion of the Secretary, the owner of the housing fails to maintain a satisfactory level of operation and maintenance;";

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon; and

(3) by adding after paragraph (12) the following new paragraphs:

"(13) may provide that utilities, trash collection, snow removal, and entomological services will be furnished by the Federal Government at no cost to the occupant to the same extent that these items are provided to occupants of housing owned by the Federal Government; and

"(14) may require that rent collection and operation and maintenance services in connection with the housing be under the terms of a separate agreement or be carried out by personnel of the Federal Government.".

SEC. 2802. LEASING OF MILITARY FAMILY HOUSING

Section 2828 of title 10, United States Code, is amended—

(1) in subsection (b)(2), by striking out "$10,000" and inserting in lieu thereof "$12,000";

(2) in subsection (b)(3)—

(A) by striking out "(A) Except as provided in subparagraph (B), not" and inserting in lieu thereof "Not";

(B) by striking out "$10,000" and "$12,000" and inserting in lieu thereof "$12,000" and "$14,000", respectively; and

(C) by striking out subparagraph (B);

(3) in subsection (e)(1), by striking out the first sentence and inserting in lieu thereof the following: "Expenditures for the rental of family housing in foreign countries (including the costs of utilities, maintenance, and operation) may not exceed $20,000 per unit per annum as adjusted for foreign currency fluctuation from October 1, 1987."; and

(4) in subsection (e)(2), by striking out "38,000" and inserting in lieu thereof "53,000".

SEC. 2803. LONG TERM FACILITIES CONTRACTS

Section 2809 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(B)(ii), by striking out "Potable" and inserting in lieu thereof "Utilities, including potable";

(2) in subsection (b), by striking out "child care centers" and inserting in lieu thereof "activities and services described in clause (i) or (ii) of subsection (a)(1)(B)"; and

(3) in subsection (c), by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2804. IMPROVEMENTS TO FAMILY HOUSING UNITS FOR THE HANDICAPPED

Section 2825(b)(1) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "will exceed"; and

(2) by inserting the following before the period: ", or (B) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, $60,000 multiplied by such index".

SEC. 2805. DOMESTIC BUILD-TO-LEASE PROGRAM

Section 2828(g) of title 10, United States Code, is amended—

(1) by striking out paragraphs (7) and (8) and inserting in lieu thereof the following:

"(7) Each of the Secretaries concerned may enter into one or more contracts under this subsection for a number of family housing units not exceeding the number specified for that Secretary as follows:

"(A) The Secretary of the Army, 6,300.

"(B) The Secretary of the Navy, 6,200.

"(C) The Secretary of the Air Force, 5,800.

"(D) The Secretary of Transportation with respect to the Coast Guard, 900.";

(2) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively; and

(3) in paragraph (8), as so redesignated, by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2806. TURN-KEY SELECTION PROCEDURES

Section 2862 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out the second sentence; and

(2) in subsection (c), by striking out "1990" and inserting in lieu thereof "1991".

SEC. 2807. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) In General.—Subchapter III of chapter 169 of title 10, United States Code, is amended by adding after section 2863 the following new section:

"§ 2864. Military construction contracts on Guam

"(a) In General.—Except as provided in subsection (b), funds appropriated for military construction may not be obligated or expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant alien described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

"(b) Exception.—In any case in which there is no acceptable bid made in response to a solicitation for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the 21-day period beginning on the date on which the Secretary concerned transmits to the Committees on Armed Services of the Senate and the House of Representatives a written notification of that determination.".

(b) Clerical Amendment.—The table of sections for such subchapter is amended by adding after the item relating to section 2863 the following:

"2864. Military construction contracts on Guam.".

(c) Effective Date.—The amendments made by this section shall apply to contracts entered into, modified, or extended on or after the date of the enactment of this Act.

SEC. 2808. AUTHORIZED COST VARIATIONS

Section 2853 of title 10, United States Code, is amended to read as follows:

"§ 2853. Authorized cost variations

"(a) Except as provided in subsection (c) or (d), the cost authorized for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be increased by not more than 25 percent of the amount appropriated for such project or 200 percent of the minor construction project ceiling specified in section 2805(a)(1), whichever is less, if the Secretary concerned determines that such an increase in cost is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have reasonably been anticipated at the time the project was approved originally by Congress.

"(b) Except as provided in subsection (c), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount approved for that project, construction, improvement, or acquisition by Congress.

"(c) The limitation on cost increase in subsection (a) or the limitation on scope reduction in subsection (b) does not apply if—

"(1) the increase in cost or reduction in scope is approved by the Secretary concerned;

"(2) the Secretary concerned notifies the appropriate committees of Congress in writing of the increase or reduction and the reasons therefor; and

"(3) a period of 21 days has elapsed after the date on which the notification is received by the committees.

"(d) The limitation on cost increases in subsection (a) does not apply to a within-scope modification to a contract or to the settlement of a contractor claim under a contract if the increase in cost is approved by the Secretary concerned, and the Secretary concerned promptly submits written notification of the facts relating to the proposed increase in cost to the appropriate committees of Congress.".

SEC. 2809. LEASE-PURCHASE OF FACILITIES

(a) In General.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2812. Lease-purchase of facilities

"(a)(1) The Secretary concerned may enter into an agreement with a private contractor for the lease of a facility of the kind specified in paragraph (2) if the facility is provided at the expense of the contractor on a military installation under the jurisdiction of the Department of Defense.

"(2) The facilities that may be leased pursuant to paragraph (1) are as follows:

"(A) Administrative office facilities.
"(B) Troop housing facilities.
"(C) Energy production facilities.
"(D) Utilities, including potable and waste water treatment facilities.
"(E) Hospital and medical facilities.
"(F) Transient quarters.
"(G) Depot or storage facilities.
"(H) Child care centers.

"(b) Leases entered into under subsection (a)—

"(1) may not exceed a term of 32 years;

"(2) shall provide that, at the end of the term of the lease, title to the leased facility shall vest in the United States; and

"(3) shall include such other terms and conditions as the Secretary concerned determines are necessary or desirable to protect the interests of the United States.

"(c)(1) The Secretary concerned may not enter into a lease under this section until—

"(A) the Secretary submits to the appropriate committees of Congress a justification of the need for the facility for which the proposed lease is being entered into and an economic analysis (based upon accepted life-cycle costing procedures) that demonstrates the cost effectiveness of the proposed lease compared with a military construction project for the same facility; and

"(B) a period of 21 days has expired following the date on which the justification and economic analysis are received by the committees.

"(2) Each Secretary concerned may, under this section, enter into—

"(A) not more than three leases in fiscal year 1990; and

"(B) not more than five leases in each of the fiscal years 1991 and 1992.

"(d) Each lease entered into under this section shall include a provision that the obligation of the United States to make payments under the lease in any fiscal year is subject to the availability of appropriations for that purpose.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"2812. Lease-purchase of facilities.".

PART B—LAND TRANSACTIONS

SEC. 2811. LAND CONVEYANCE AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA, AND CONSTRUCTION OF FAMILY HOUSING AT MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Navy may—

(1) convey to the County of Orange, California, or its designee, or both, all right, title, and interest of the United States in and to approximately 77 acres of real property, including improvements thereon, consisting of three severable parcels at Marine Corps Air Station, El Toro, California; and

(2) accept monetary consideration for such property and expend it for the construction of additional military family housing units at Marine Corps Air Station, Tustin, California.

(b) CONDITIONS.—(1) The Secretary shall provide that all conveyances under this section are subject to the retention of appropriate interests to ensure that future use of the conveyed property is compatible with military activities.

(2) Conveyances under this section shall be made in exchange for payment of the fair market value of the property conveyed, as determined by an independent appraisal satisfactory to the Secretary and paid for by the County or its designees, or both.

(3) Any contract for construction authorized under this section shall be awarded through competitive procedures.

(4) The Secretary may not enter into any contract for construction under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a detailed report on the proposed contract.

(5) The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under this section by the end of the four-year period beginning on the date of the receipt thereof.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the County or its designee, or both.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2812. LAND CONVEYANCE, FORT GILLEM, GEORGIA

(a) In General.—Subject to subsections (b) through (e), the Secretary of the Army may convey, without consideration, to the State of Georgia all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, at Fort Gillem, Clayton County, Georgia, consisting of approximately 35.26 acres, for use by the State for the administration of the Georgia Department of Defense, the Georgia National Guard, and other Georgia National Guard activities.

(b) Conditions of Conveyance.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

(1) The property conveyed shall be used for the administration of the Georgia Department of Defense, the Georgia National Guard, and for other official activities of the Georgia National Guard.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interests in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) Reversion.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) Description of Property.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the State.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2813. LAND CONVEYANCE, HICKAM AIR FORCE BASE, HAWAII

(a) In General.—Subject to subsections (b) through (h), the Secretary of the Air Force may convey to the State of Hawaii all right, title, and interest of the United States in and to approximately 22.88 acres of real property, including improvements thereon, located on the eastern boundary of Hickam Air Force Base, Hawaii.

(b) Consideration.—(1) In consideration for the conveyance authorized by subsection (a), the State of Hawaii shall, subject to subsection (c), be required to—

(A) pay for the cost of designing and constructing the facilities and improvements described in subsection (c)(2), in accordance with such specifications as the Secretary may prescribe;

(B) pay for the cost of relocating munition storage facilities designated by the Secretary and situated on the property to be conveyed by the Secretary;

(C) pay for the cost of relocating the existing security fence to conform with the new boundaries of Hickam Air Force Base after such conveyance; and

(D) pay to the United States the difference, if any, between the fair market value of the property conveyed, as determined by the Secretary, and the cost of facilities and improvements provided by the State of Hawaii under subsection (c).

(2) Costs incurred by the State of Hawaii in connection with the relocations referred to in clauses (B) and (C) of paragraph (1) may not be considered as any part of the payment of the fair market value of the property referred to in subsection (a).

(c) IMPLEMENTATION.—(1) The Secretary may—

(A) accept facilities and improvements referred to in paragraph (2) designed and constructed by the State of Hawaii, according to standards specified by the Secretary, that are equal in value to not less than the fair market value of the property to be conveyed by the Secretary; or

(B) in the discretion of the Secretary, accept payment of the fair market value for the property to be conveyed by the Secretary and design and construct facilities and improvements referred to in paragraph (2).

(2) The facilities and improvements to be provided by the State of Hawaii or constructed by the Secretary with funds provided by the State shall be for one or more of the following projects in the order of priority in which they are listed:

(A) One hundred units of military family housing at Hickai Air Force Base, Hawaii.

(B) Construction of an enlisted personnel dormitory at such Base.

(C) Renovation of an existing enlisted personnel dormitory at such Base.

(3) The Secretary may not enter into any contract for any construction project or improvement under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a detailed report on the proposed contract.

(d) SECURITY FOR CONVEYANCE.—(1) The Secretary may convey the property described in subsection (a) to the State of Hawaii before completion of the construction of the facilities referred to in subsection (b)(1) upon—

(A) the execution of an escrow agreement between the Secretary and the State of Hawaii and deposit by the State in an escrow account (pursuant to such agreement) of an amount equal to the fair market value of the property to be conveyed by the Secretary; or

(B) the acceptance by the Secretary of payment of such amount.

(2) The Secretary may obligate and expend funds accepted under paragraph (1)(B) for design and construction of the facilities and improvements referred to in subsection (c)(2).

(e) VACATING PROPERTY.—If the Secretary conveys property to the State under this section before completion of the construction of the facilities and improvements referred to in subsection (b)(1), the Secretary shall not be required to vacate the property until the completion, and approval by the Secretary, of the work described in subparagraphs (B) and (C) of subsection (b)(1).

(f) EXCESS AMOUNT.—The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under this section by the end of the four-year period beginning on the date of the receipt thereof.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the State of Hawaii.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2814. LAND CONVEYANCES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—(1) Section 2332 of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 100 Stat. 1223), is amended by striking out subsections (a) through (e) and inserting in lieu thereof the following:

"(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Army may sell and convey to the State of Hawaii approximately 35.92 acres of real property, including improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate the facilities located on such property.

"(b) CONSIDERATION.—In consideration for the real property described in subsection (a), the State of Hawaii shall pay the United States an amount equal to not less than the fair market value of the property to be conveyed, as determined by the Secretary.

"(c) USE OF SALE PROCEEDS.—The Secretary shall use the proceeds received from the sale of property authorized by this section—

"(1) for the cost of the design and construction of suitable replacement facilities to be constructed at Fort Shafter, Fort Kamehameha, Tripler Army Medical Center, and Schofield Barracks, Hawaii; and

"(2) for any cost incurred by the Department of the Army under this section with respect to the sale and relocation of facilities.

"(d) EXCESS AMOUNT.—(1) The Secretary may use any proceeds in excess of the amount required to pay costs referred to in subsection (c) for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such proceeds may not be used to pay for the construction of any nonappropriated-fund project identified in such plan.

"(2) At the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, the Secretary shall deposit any amount received and not expended under this section into the Treasury as miscellaneous receipts.".

(2) Subsections (f) and (g) of section 2332 of such Act are redesignated as subsections (e) and (f), respectively.

(b) SAVINGS PROVISION.—The provisions of section 2332 of the Military Construction Authorization Act, 1988 and 1989, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the sale of any property referred to in such section that was sold pursuant to such section before the date of the enactment of this Act.

(c) CEDED LANDS.—(1) Subject to paragraphs (2) through (4), the Secretary of the Army shall convey to the State of Hawaii, without consideration other than that described in paragraph (2), all right, title, and interest of the United States in and to approximately 17.8 acres of ceded lands, including improvements thereon, at Kapalama Military Reservation, Hawaii.

(2) In consideration for the conveyance authorized under paragraph (1) the State of Hawaii shall pay to the United States the fair market value, as determined by the Secretary, of any improvements on the land not made at the State's expense. The Secretary shall deposit any amount received into the Treasury as miscellaneous receipts.

(3) The exact acreage and legal description of the land to be conveyed under paragraph (1) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the State of Hawaii.

(4) The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2815. LAND CONVEYANCE, PUBLIC WORKS CENTER, GREAT LAKES, ILLINOIS

(a) In General.—Subject to subsections (b) through (f), the Secretary of the Navy may—

(1) sell and convey all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 14 acres of land, comprising that portion of the Public Works Center, Great Lakes, located south of the intersection of Desplaines Avenue and West Roosevelt Road, Forest Park, Illinois; and

(2) use the proceeds from the sale of such property to construct not more than 35 units of military family housing at the Naval Air Station, Glenview, Illinois.

(b) Competitive Procedures; Minimum Sale Price.—(1) The Secretary shall use competitive procedures for the sale of the property described in subsection (a)(1).

(2) In no event may the property be sold for less than the greater of (A) the fair market value of the property, as determined by the Secretary, or (B) the amount necessary to cover the costs of constructing replacement housing and relocating the tenants from such property.

(c) Condition of Sale.—The conveyance authorized by subsection (a) shall be subject to the condition that the purchaser permit the Department of the Navy to continue to occupy, without consideration, the property to be conveyed until the replacement housing has been constructed or acquired by the Secretary, except that in no event may the Department continue to occupy the property pursuant to this subsection more than two years after the date of the conveyance.

(d) Use of Funds.—(1) The Secretary may use the proceeds from the sale of the property described in subsection (a) for payment of the following costs:

(A) The cost of design and construction of not more than 35 units of military family housing to be constructed at the Naval Air Station, Glenview, Illinois.

(B) The cost of relocating the tenants occupying the housing facilities located on the property described in subsection (a)(1) to new housing facilities.

(C) The cost of appraisals and other costs related to the sale of the property.

(2) The Secretary may not enter into any contract for construction under this section until after the 21-day period beginning on the

date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a detailed report on the proposed contract.

(3) The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under this section by the end of the four-year period beginning on the date of receipt thereof.

(e) Description of Property.—The exact acreage and legal description of any property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(f) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2816. LAND CONVEYANCE, FORT KNOX, KENTUCKY

(a) In General.—Subject to subsections (b) through (f), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 12 acres, including improvements thereon, contiguous to the corporate limits of the City of Radcliff, Kentucky, and bounded on the east by U.S. Highway 31W, by the Radcliff city park on the south, by residential property to the west, and by Fort Knox to the north.

(b) Competitive Bid Requirement; Minimum Sale Price.—(1) The Secretary shall use competitive procedures for the sale of the property referred to in subsection (a).

(2) In no event may any of the property referred to in subsection (a) be sold for less than the fair market value of the property, as determined by the Secretary.

(c) Use of Proceeds.—(1) The Secretary shall use the proceeds from the sale of the property referred to in subsection (a) for the construction of up to four units of military family housing at Fort Knox, Kentucky.

(2) The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under this section by the end of the four-year period beginning on the date of receipt thereof.

(d) Notice.—The Secretary may not enter into any contract for construction under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a detailed report on the proposed contract.

(e) Description of Property.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(f) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2817. RELEASE OF REVERSIONARY INTEREST TO STATE OF MINNESOTA

(a) In General.—Subject to subsection (b) through (d), the Secretary of the Army may release—

(1) to the State of Minnesota the reversionary interest of the United States in approximately 35 acres of real property at Fort Snelling, Minnesota, including improvements thereon, known as "Area J" and conveyed from the United States to the State of Minnesota by a quitclaim deed dated August 17, 1971; and

(2) the State of Minnesota from all covenants and agreements contained in such quitclaim deed that relate to such property.

(b) Consideration.—In consideration of the release under subsection (a), the State of Minnesota shall convey to the United States, without consideration, the property referred to in subsection (a)(1) for use by the Department of the Army.

(c) Description of Property.—The exact acreage and legal description of the property from which the reversionary interest is to be released shall be determined by surveys satisfactory to the Secretary of the Army and the State of Minnesota.

(d) Additional Terms and Conditions.—(1) The Secretary may require such additional terms and conditions in connection with the release under this section as the Secretary determines appropriate to protect the interests of the United States.

(2) The Secretary of the Army may accept the conveyance of the property referred to in subsection (b) subject to a reversionary interest in the State of Minnesota. The reversionary interest may provide that if the property is not used for Army purposes and the preservation of the historic structures lying thereon in conformity with Department of the Interior standards for properties on the National Register of Historic Places, the property shall revert to the State of Minnesota.

SEC. 2818. LAND CONVEYANCE, NAVAL RESERVE CENTER, KEARNEY, NEW JERSEY

(a) In General.—Subject to sections (b) through (d) the Secretary of the Navy may convey to Hudson County, New Jersey, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 2.9 acres, that comprises a portion of the Naval Reserve Center, Kearney, New Jersey.

(b) Consideration.—(1) In consideration for the conveyance authorized by subsection (a), Hudson County, New Jersey, shall demolish two Naval Reserve Center buildings on the Naval Reserve Center referred to in that subsection, improve the motor vehicle parking facilities on such Naval Reserve Center, and provide additional motor vehicle parking facilities on land adjacent to or near the Naval Reserve Center (and owned by Hudson County) for use by the United States. The improved and the additional parking facilities shall be acceptable to the Secretary, and the additional parking facilities shall be provided on such terms and conditions and for such period as the Secretary shall prescribe.

(2) If the fair market value of the land to be conveyed under subsection (a) exceeds the fair market value of the consideration received under paragraph (1), as determined by the Secretary, Hudson County shall pay the amount of the difference to the United States. Any such payment shall be deposited into the Treasury as miscellaneous receipts.

(c) Description of Property.—The exact acreage and legal description of the property to be conveyed under this section described in subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by Hudson County, New Jersey.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with any conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2819. TRANSFER OF JURISDICTION OVER CERTAIN LANDS AT SANDIA, NEW MEXICO

(a) In General.—The Secretary of Defense may transfer to the Secretary of Energy, without consideration, jurisdiction and control of the real property, including improvements thereon, described in subsection (b) for use by the Department of Energy in providing a location for the Center for National Security and Arms Control.

(b) Description of Property.—(1) The real property referred to in subsection (a) is a tract of land, including improvements thereon, located in Bernalillo County, New Mexico, in a portion of section 32, township 10 north, range 4 east, New Mexico principal meridian, and consisting of approximately 5.6 acres.

(2) The exact acreage and legal description of the property referred to in paragraph (1) shall be determined by a survey satisfactory to the Secretary of Defense.

SEC. 2820. LAND CONVEYANCE, PITTSBURGH, PENNSYLVANIA

(a) In General.—Subject to subsections (b) through (f), the Secretary of the Navy may convey to Carnegie-Mellon University all right, title, and interest of the United States in and to approximately 1.29 acres of land located at 4902 Forbes Avenue, Allegheny County, Pittsburgh, Pennsylvania, including improvements thereon, comprising the Naval and Marine Corps Reserve Center.

(b) Consideration.—In consideration for the sale and conveyance, the University shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States under subsection (a).

(c) Use of Funds.—(1) Funds received by the Secretary under subsection (b) may be used to pay for the acquisition or construction of a replacement facility, including the acquisition of real property, in the greater Pittsburgh area to be used as a Naval and Marine Corps Reserve Center.

(2) The Secretary shall deposit into the Treasury as miscellaneous receipts any amount received under this section and not obligated under paragraph (1) within the four-year period beginning on the date of the receipt thereof.

Reports.

(d) Notice.—The Secretary may not enter into any contract for acquisition or construction of replacement facilities under this section until after the 21-day period beginning on the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a detailed report on the proposed contract.

(e) Description of Property.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the University.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2821. LAND CONVEYANCE, FORT BELVOIR, VIRGINIA

(a) IN GENERAL.—Subject to subsections (b) through (h), the Secretary of the Army may convey to any grantee selected in accordance with subsection (e) all right, title, and interest of the United States in and to all or any portion of the parcel of real property, including improvements thereon, at Fort Belvoir, Virginia, consisting of approximately 820 acres and known as the Engineer Proving Ground.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized in subsection (a), the grantee shall—

(A) construct facilities for the Department of the Army referred to in subsection (c)(1)(D);

(B) permit use by, or grant title to, the Department of such facilities; and

(C) make infrastructure improvements for the Department of the Army referred to subsection (c)(1)(D),

as may be specified by the Secretary in an agreement to be entered into by the grantee and the Secretary in connection with the conveyance.

(2) In no event may the value of the consideration provided by the grantee pursuant to paragraph (1) be less than the fair market value, as determined by the Secretary, of the property conveyed to the grantee pursuant to this section.

(c) CONTENT OF AGREEMENT.—(1) An agreement entered into under this section shall include the following:

(A) A requirement that the grantee develop the real property conveyed to the grantee pursuant to this section as a balanced, mixed-use development.

(B) A requirement that the development of the property include improvements to public transportation systems, utilities, and telecommunications on and off the property, and any other infrastructure improvements that may be specified by the Secretary in connection with such development.

(C) A requirement that the development and all such improvements comply with the specifications of a master plan formulated for the real property by the Secretary and agreed to by the appropriate officials of the County of Fairfax, Virginia, and the Commonwealth of Virginia.

(D) A requirement that the grantee construct facilities and make infrastructure improvements for the Department of the Army that the Secretary determines are necessary for the Department at Fort Belvoir and at other sites at which activities will be relocated as a result of the conveyance made under this section.

(E) A requirement that the construction of facilities and infrastructure improvements referred to in subparagraph (D) be carried out in accordance with plans and specifications approved by the Secretary.

(F) Such other terms and conditions as the Secretary and the grantee may agree upon.

(2) The Secretary may provide that the agreement be subject to review and approval by the appropriate officials of the County of Fairfax, Virginia, and the Commonwealth of Virginia.

Reports.

(d) NOTICE.—The Secretary may not enter into any agreement under this section until the expiration of 60 days following the date on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives a report containing the details of the proposed agreement.

(e) SELECTION OF GRANTEE.—The Secretary shall use competitive procedures for the selection of a grantee. In evaluating the offers of prospective grantees, the Secretary shall consider the technical sufficiency of the offers and the cost of constructing the required facilities and making the required infrastructure improvements for the Department of the Army, as contained in the offers.

(f) REVERSION.—If the Secretary determines that the grantee—

(1) is unable or unwilling to develop the real property conveyed to the grantee under this section in accordance with the agreement entered into by the grantee under this section; or

(2) is unable or unwilling to construct any facility or complete any infrastructure improvement for the Department of the Army in accordance with such agreement,

all right, title, and interest in and to the real property conveyed to such grantee in connection with such agreement shall automatically revert to the United States, regardless of the reason for such inability or unwillingness, and the United States shall have the right of immediate entry thereon.

(g) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of any such survey shall be borne by the grantee.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. MODIFICATION OF REVERSIONARY INTEREST, PORT OF BENTON, WASHINGTON

(a) IN GENERAL.—(1) Subject to subsections (b) through (d), the Secretary of the Army may modify the reversionary interest of the United States in and to approximately 22 acres of real property, including improvements thereon, constituting a portion of a larger tract of land conveyed to the Port of Benton, Washington, by quitclaim deed dated June 1, 1964.

(2) The deed referred to in paragraph (1) is the quitclaim deed executed by the Secretary of the Army, dated June 1, 1964, which conveyed to the Port of Benton, Washington, pursuant to section 108 of the River and Harbor Act of 1960 (74 Stat. 486; 33 U.S.C. 578), approximately 290 acres of land owned by the United States.

(3) The 22-acre parcel of land referred to in paragraph (1) is bordered on the east by the Columbia River, on the north by First Street, on the south by the Tri-Cities University Center, and on the west by the Port of Benton property that is east of George Washington Way.

Schools and colleges.

(b) MODIFICATION.—(1) The Secretary shall modify the reversionary interest referred to in subsection (a) in such manner as may be necessary to permit the Port of Benton, Washington, to donate approximately 22 acres of the land conveyed by the deed referred to in subsection (a)(2) to Washington State University for the establishment of a university branch on the donated land.

(2) The modified reversionary interest shall provide that if at any time the Secretary determines that the donated land is not being used for the purpose described in paragraph (1), title to such land shall revert to the United States, the United States shall have the right of immediate entry thereon, and title to the land (including all improvements thereon) shall vest in the United States without compensation by the United States.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Army The cost of such survey shall be borne by the Port of Benton, Washington.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

PART C—PROVISIONS RELATING TO BASE CLOSURES AND REALIGNMENTS

SEC. 2831. HOMEOWNERS ASSISTANCE PROGRAM

(a) IN GENERAL.—Section 2832 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b)(1) Subject to paragraph (2) and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a)—

"(A) the Secretary of Defense may transfer not more than $31,000,000 from the Department of Defense Base Closure Account, established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627), to the fund established pursuant to subsection (d) of such section 1013 for use as part of such fund; and

"(B) any funds so transferred shall be available for obligation and expenditure for the same purposes that funds appropriated to such fund are available, except that such funds may not be obligated after September 30, 1991.

"(2) Amounts may be transferred under paragraph (1) only after the date on which the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives receive from the Secretary written notice of, and justification for, the transfer.".

10 USC 2832 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only to funds appropriated or transferred to, or otherwise deposited in, the Department of Defense Base Closure Account for, or during, fiscal years beginning after September 30, 1989.

10 USC 2687 note.

SEC. 2832. USE OF CLOSED BASES FOR PRISONS AND DRUG TREATMENT FACILITIES

(a) FINDINGS.—The Congress finds that—

(1) the war on drugs is one of the highest priorities of the Federal Government;

(2) to effectively wage the war on drugs, adequate penal and correctional facilities and a substantial increase in the number and capacity of drug treatment facilities are needed;

(3) under the base closure process, authorized by title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627), 86 military bases are scheduled for closure; and

(4) facilities rendered excess by the base closure process should be seriously considered for use as prisons and drug treatment facilities, as appropriate.

(b) Sense of Congress.—It is the sense of Congress that the Secretary of Defense should, pursuant to the provisions of title II of the Defense Authorization Amendments and Base Closure and Realignment Act, give priority to making real property (including the improvements thereon) of the Department of Defense rendered excess or surplus as a result of the recommendations of the Commission on Base Realignment and Closure available to another Federal agency or a State or local government for use as a penal or correctional facility or as a drug abuse prevention, treatment, or rehabilitation center.

SEC. 2833. NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

10 USC 2687 note.

(a) Identification of Enrollment Changes.—(1) Not later than January 1 of each year in which any activities necessary to close or realign a military installation under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627) are conducted, the Secretary of Defense shall identify, to the extent practicable, each local educational agency that will experience at least a 5-percent increase or at least a 10-percent reduction in the number of dependent children of members of the Armed Forces and of civilian employees of the Department of Defense enrolled in schools under the jurisdiction of such agency during the next academic year (compared with the number of such children enrolled in such schools during the preceding year) as a result of the closure or realignment of a military installation under that Act.

(2) The Secretary shall carry out this subsection in consultation with the Secretary of Education.

(b) Notice Required.—Not later than 30 days after the date on which the Secretary of Defense identifies a local educational agency under subsection (a), the Secretary shall transmit a written notice of the schedule for the closure or realignment of the military installation affecting that local educational agency to that local educational agency and to the State government education agency responsible for administering State government education programs involving that local educational agency.

SEC. 2834. REPORT

(a) Report Requirement.—Not later than November 15, 1989, the Comptroller General of the United States shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on the methodology, findings, and recommendations of the Commission on Base Realignment and Closure.

(b) Content of Report.—(1) In preparing the report, the Comptroller General should consider the following:

(A) The adequacy and accuracy of the information relied upon as a basis for the Commission's recommendations.

(B) The process used in the determination of military missions and requirements and the military value of the bases in meeting such missions and requirements.

(C) The criteria used to select bases to be closed or realigned.

(D) The findings regarding military and civilian personnel reductions and associated relocation and termination expenses.

(E) The findings regarding nonrecurring costs, including expenses such as costs of construction, personnel, and logistics.

(F) The findings regarding long-term, annual savings, including the estimated cost amortization period.

(G) The findings regarding assumed proceeds from property sales for each applicable initiative.

(H) The findings regarding any environmental restoration costs that must be incurred in order to make it possible to sell or transfer excess property.

(2) If any inaccuracies in the information referred to in paragraph (1)(A) are noted in the report, the Comptroller General shall include in the report an assessment of the effects of such inaccuracies upon the methodology, findings, and recommendations of the Commission.

Part D—Miscellaneous Provisions

SEC. 2841. WHITE SANDS MISSILE RANGE, NEW MEXICO

(a) In General.—The Secretary of the Army may, subject to such terms and conditions as the Secretary considers appropriate to protect the interests of the United States, issue a revocable license to the Ova Noss Family Partnership, a California limited partnership, to conduct a search for treasure trove in the Victorio Peak region of White Sands Missile Range, New Mexico, and may provide the Ova Noss Family Partnership with necessary processing, administration, and support incident to the license, including transportation, communications, safety and security, ordnance disposal services, housing, and public affairs assistance that the Ova Noss Family Partnership cannot contract for directly.

(b) Reimbursement.—(1) The Secretary of the Army shall require the Ova Noss Family Partnership to reimburse the Department of the Army for—

(A) all costs related to providing such processing, administration, and support; and

(B) other costs or losses incurred by the Department of the Army in connection with or as a result of the search.

(2) Reimbursements for such costs shall be credited to the Department of the Army appropriation from which the costs were paid.

(c) Report.—For each fiscal year in which any action is carried out under this section, the Secretary shall transmit a report to the Committees on Armed Services of the Senate and of the House of Representatives containing an accounting of each action taken under this section during such fiscal year.

SEC. 2842. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may use funds appropriated to the Department of Defense for fiscal year 1990 for planning and design purposes to provide community planning assistance in the following amounts to the following communities:

(1) Not to exceed $250,000 of the planning and design funds of the Department of the Army for communities located near the newly established light infantry division posts at Fort Drum, New York.

(2) Not to exceed $250,000 of the planning and design funds of the Department of the Navy for communities located near the newly established Navy strategic dispersal program homeport at Everett, Washington.

(3) Not to exceed $250,000 of the planning and design funds of the Department of the Air Force for communities located near Whiteman Air Force Base, Knob Noster, Missouri.

SEC. 2843. DEVELOPMENT OF LAND AND LEASE OF FACILITY AT HENDERSON HALL, ARLINGTON, VIRGINIA

(a) In General.—The Secretary of the Navy may—

(1) using funds provided by the Navy Mutual Aid Association, design, supervise, construct, and inspect a multipurpose facility of approximately 62,000 square feet to be located at Henderson Hall, Arlington, Virginia; and

(2) lease, without reimbursement, to the Navy Mutual Aid Association approximately one-third of the square footage of the facility to be constructed.

(b) Terms of Lease.—The lease entered into under subsection (a)(2) shall—

(1) be for a term of 50 years;

(2) be in full consideration for the funds provided to the Secretary by the Navy Mutual Aid Association pursuant to subsection (a);

(3) provide that in the event the lease is canceled by the Secretary before expiration, the Secretary shall, as determined by the Secretary, provide comparable alternative space or, subject to the availability of funds, reimburse the Navy Mutual Aid Association for the unamortized cost of the building; and

(4) allow, at the discretion of the Secretary, for the Navy Mutual Aid Association to continue to use the space after the initial 50-year term, in compliance with laws and regulations applicable at that time.

(c) Conditions.—(1) Title to the facility described in subsection (a)(1) shall be and remain in the United States.

(2) All construction authorized under this section shall be awarded through competitive procedures.

(3) Any lease or other agreement entered into under the authority of this section shall be subject to such terms and conditions as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2844. REPORT REGARDING FORT MEADE RECREATION AREA

The Secretary of the Army shall, not later than 30 days after the date of the enactment of this Act, transmit to the Committees on Armed Services of the Senate and of the House of Representatives a report on the feasibility of conveying to the State of Delaware a parcel of property known as Fort Meade Recreation Area, formerly Fort Miles, Delaware, consisting of approximately 96 acres. Delaware.

SEC. 2845. COOPERATIVE AGREEMENTS FOR LAND MANAGEMENT ON DEPARTMENT OF DEFENSE INSTALLATIONS

(a) In General.—The Act entitled "An Act to promote effectual planning, development, maintenance, and coordination of wildlife, fish, and game conservation and rehabilitation in military reservations" (popularly known as the "Sikes Act"), approved September 15, 1960 (16 U.S.C. 670a et seq.), is amended by inserting after section 103 the following new section:

16 USC 670c-1. "Sec. 103a. (a) The Secretary of Defense may enter into cooperative agreements with States, local governments, nongovernmental organizations, and individuals to provide for the maintenance and improvement of natural resources on, or to benefit natural and historic research on, Department of Defense installations.

"(b) A cooperative agreement shall provide for the Secretary of Defense and the other party or parties to the agreement—

"(1) to contribute funds on a matching basis to defray the cost of programs, projects, and activities under the agreement; or

"(2) to furnish services on a matching basis to carry out such programs, projects, and activities,

or to do both.

"(c) Cooperative agreements entered into under this section shall be subject to the availability of funds and shall not be considered, nor be treated as, cooperative agreements to which chapter 63 of title 31, United States Code, applies.".

(b) Conforming Amendments.—Section 106 of such Act (16 U.S.C. 670f) is amended—

(1) in subsection (a), by inserting "and cooperative agreements agreed to under section 103a" in the first sentence after "sections 101 and 102"; and

(2) in subsection (b), by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", and to carry out such functions and responsibilities as the Secretary may have under cooperative agreements entered into under section 103a.".

SEC. 2846. REIMBURSEMENT FOR COSTS ASSOCIATED WITH HOMEPORTING AT LAKE CHARLES, LOUISIANA

(a) In General.—(1) Subject to subsections (b) through (e), the Secretary of the Navy may—

(A) reimburse the Lake Charles Harbor and Terminal District, Lake Charles, Louisiana, in an amount not to exceed $2,600,000 for actual expenses—

(i) that were incurred by the District before the date of the enactment of this Act for the construction of utilities and roads to serve the proposed Lake Charles Navy Homeport, which is to be closed pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2626); and

(ii) that will be incurred by the District after the date of the enactment of this Act in connection with the construction of such utilities and roads as a direct result of the closing of the homeport, as determined by the Secretary;

(B) pay to the Lake Charles Harbor and Terminal District an amount not to exceed $1,300,000 for completion of the permanent access road to the proposed homeport from State Highway 384;

(C) take such action as may be necessary to release to the State of Louisiana any funds remaining in the trust account established by the State pursuant to the Memorandum of Agreement between the State and the Department of the Navy for use by the Department in connection with the construction of the Lake Charles Navy Homeport; and

(D) reimburse the State of Louisiana for any funds expended by the Navy from the trust account referred to in clause (C).

(2) The total of the amount of funds that may be released to the State of Louisiana pursuant to subparagraph (C) of paragraph (1) and paid to the State pursuant to subparagraph (D) of that paragraph may not exceed $5,000,000.

(b) SOURCE OF FUNDS.—Payments under this section shall be made from funds appropriated pursuant to the Military Construction Appropriations Act, 1988 (as contained in section 101(j) of Public Law 100-202; 101 Stat. 1329-311) for the construction of facilities at the proposed Lake Charles Navy Homeport. In no event may the total amount paid under this section by the Secretary exceed the amount appropriated for construction of homeport facilities at Lake Charles and remaining available for obligation after payment of all termination costs resulting from the closure of the Lake Charles Navy Homeport.

(c) LAND CONVEYANCE.—The Secretary shall convey to the Lake Charles Harbor and Terminal District, without consideration, approximately 38 acres of real property, including improvements and the sheet pile materials thereon, constituting the proposed Lake Charles Navy Homeport, Louisiana. Such lands are the same lands that were previously conveyed, without consideration, to the United States by the Lake Charles Harbor and Terminal District by special warranty deed dated March 14, 1988.

(d) CONDITION.—The reimbursements and conveyance provided for in this section shall be made subject to the condition that the agreement entered into by the Lake Charles Harbor and Terminal District, the State of Louisiana, and the United States entitled "Memorandum of Understanding for Donation of Land and Establishment of Homeport", dated June 11, 1986, shall be considered canceled and of no force or effect after such reimbursements and conveyance have been made by the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2847. FEASIBILITY STUDY OF LAND TRANSFER FOR USE AS A CORRECTIONAL FACILITY

Virginia.
Courts, U.S.

(a) IN GENERAL.—(1) The Secretary of Defense shall, in consultation with the Attorney General of the United States, conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land of approximately one hundred acres not more than one hundred miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for a medium security correctional facility for persons sentenced in the courts of Virginia or in a United States District Court in Virginia.

(2) The study required by paragraph (1) shall address, at a minimum, the following issues:

(A) Whether there are parcels of land within those installations of the size described which could be released from Federal control without severely affecting the present mission of such installations.

(B) A description of the parcels of land referred to in subparagraph (A).

(C) A description of the effects, if any, transfer of such parcels of land from Federal control would have on the ability of the Secretary of Defense to carry out effectively the missions of the Department of Defense.

(D) An analysis of the risk, if any, that might be posed to military personnel and their dependents housed on such installation by the operation of such a correctional facility on the parcels of land referred to in subparagraph (A).

(E) An estimate of the date on which the parcels of land referred to in subparagraph (A) would be available for transfer from Federal control.

(b) Report.—The report of the study described in subsection (a) shall be transmitted to the Committees on Armed Services of the Senate and of the House of Representatives not later than 60 days after the date of the enactment of this Act.

(c) Sense of Congress.—It is the sense of the Congress that no land is to be conveyed or otherwise transferred for use as a correctional facility as a result, directly or indirectly, of the study carried out under this section unless—

(1) the unit or units of general local government having jurisdiction over the land will utilize the correctional facility to be located on the land; or

(2) such unit or units have approved formally the use of such land for a correctional facility.

SEC. 2848. CONSTRUCTION OF MILITARY FAMILY HOUSING AT MARINE CORPS AIR STATION, TUSTIN, CALIFORNIA

(a) Authority To Use Litigation Proceeds.—Subject to subsections (b) through (d), upon final settlement in the case of Rossmoor Liquidating Trust against United States, in the United States District Court for the Central District of California (Case No. CV 82-0956 LEW (Px)), the Secretary of the Treasury shall deposit in a separate account any funds paid to the United States in settlement of such case. The Secretary of the Treasury shall make available, upon request, the amount in such account to the Secretary of the Navy solely for the construction of military family housing at Marine Corps Air Station, Tustin, California.

(b) Units Authorized.—Not more than 150 military family housing units may be constructed with funds referred to in subsection (a). The units authorized by this subsection are in addition to any units otherwise authorized to be constructed at Marine Corps Air Station, Tustin, California.

(c) Payment of Excess Into Treasury.—The Secretary of the Treasury shall deposit into the Treasury as miscellaneous receipts funds referred to in subsection (a) that have not been obligated for construction under this section within four years after receipt thereof.

Reports.

(d) Limitation.—The Secretary may not enter into any contract for the construction of military family housing under this section until after the expiration of the 21-day period beginning on the day after the day on which the Secretary transmits to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report containing the details of such contract.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,774,573,000, to be allocated as follows:

(A) For research and development, $1,064,970,000.

(B) For weapons testing, $511,700,000.

(C) For production and surveillance, $2,100,000,000.

(D) For program direction, $97,903,000.

(2) For defense nuclear materials production, $1,654,691,000, to be allocated as follows:

(A) For production reactor operations, $578,049,000.

(B) For processing of defense nuclear materials, including naval reactors fuel, $589,609,000, of which $78,744,000 shall be used for special isotope separation.

(C) For supporting services, $282,868,000.

(D) For uranium enrichment for naval reactors, $168,900,000.

(E) For program direction, $35,265,000.

(3) For environmental restoration and management of defense waste and transportation, $1,441,875,000 to be allocated as follows:

(A) For environmental restoration, $572,000,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $699,696,000.

(C) For waste research and development, $115,225,000.

(D) For hazardous waste and compliance technology, $40,163,000.

(E) For transportation management, $11,841,000.

(F) For program direction, $2,950,000.

(4) For verification and control technology, $159,146,000.

(5) For nuclear materials safeguards and security technology development program, $82,241,000.

(6) For security investigations, $41,200,000.

(7) For new production reactors, $203,500,000.

(8) For naval reactors development, $562,800,000.

SEC. 3102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1990 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 90-D-101, general plant projects, various locations, $28,130,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $1,000,000.

Project 90-D-103, environment, safety, and health improvements, various locations, $10,700,000.

Project 90-D-121, general plant projects, various locations, $30,850,000.

Project 90-D-122, production capabilities for the nuclear depth/strike bomb (ND/SB), various locations, $8,000,000.

Project 90-D-124, high explosives (HE) synthesis facility, Pantex Plant, Amarillo, Texas, $1,800,000.

Project 90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee, $1,500,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $26,700,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $9,200,000.

Project 89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado, $45,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $3,500,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,100,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $44,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $94,400,000.

Project 88-D-122, facilities capability assurance program, various locations, $83,099,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $5,500,000.

Project 88-D-124, fire protection upgrade, various locations, $5,400,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $36,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $7,000,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $41,200,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $5,200,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $24,025,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $9,460,000.

(2) For materials production:

Project 90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $3,500,000.

Project 90-D-142, coal storage facility environmental upgrade, Feed Materials Production Center, Fernald, Ohio, $920,000.

Project 90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington, $800,000.

Project 90-D-146, general plant projects, various locations, $36,802,000.

Project 90-D-149, plantwide fire protection, Phase I, Savannah River, South Carolina, $4,900,000.

Project 90-D-150, reactor safety assurance, Phase I, Savannah River, South Carolina, $12,700,000.

Project 90-D-151, engineering center, Savannah River, South Carolina, $7,000,000.

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $10,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $7,800,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $40,000,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $7,100,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $6,400,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, and III, Feed Materials Production Center, Fernald, Ohio, $55,111,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $40,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, IV, and V, various locations, $81,780,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $3,164,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $6,181,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $75,000,000.

(3) For defense waste and environmental restoration:

Project 90-D-170, general plant projects, various locations, $29,036,000.

Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $1,100,000.

Project 90–D–172, aging waste transfer lines, Richland, Washington, $1,300,000.

Project 90–D–173, B plant canyon crane replacement, Richland, Washington, $1,500,000.

Project 90–D–174, decontamination laundry facility, Richland, Washington, $2,800,000.

Project 90–D–175, landlord program safety compliance–I, Richland, Washington, $4,200,000.

Project 90–D–176, transuranic (TRU) waste facility, Savannah River, South Carolina, $3,100,000.

Project 90–D–177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $5,000,000.

Project 90–D–178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $6,000,000.

Project 89–D–171, Idaho National Engineering Laboratory road renovation, Idaho, $7,400,000.

Project 89–D–172, Hanford environmental compliance, Richland, Washington, $27,600,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $15,400,000.

Project 89–D–174, replacement high level waste evaporator, Savannah River, South Carolina, $9,360,000.

Project 89–D–175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $6,440,000.

Project 88–D–173, Hanford waste vitrification plant, Richland, Washington, $29,100,000.

Project 87–D–173, 242–A evaporator crystallizer upgrade, Richland, Washington, $700,000.

Project 87–D–181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $2,790,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $14,140,000.

(4) For verification and control technology:

Project 90–D–186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $1,000,000.

(5) For new production reactor:

Project 88–D–154, new production reactor capacity, various locations, $100,000,000.

(6) For naval reactors development:

Project 90–N–101, general plant projects, various locations, $8,500,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $3,600,000.

Project 90–N–103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $200,000.

Project 90–N–104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,900,000.

Project 89–N–102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $6,500,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $3,100,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $6,400,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $3,000,000.

(7) For capital equipment not related to construction:

(A) For weapons activities, $284,370,000, including $8,740,000 for the defense inertial confinement fusion program.

(B) For materials production, $104,425,000.

(C) For defense waste and environmental restoration, $50,126,000.

(D) For verification and control technology, $9,732,000.

(E) For nuclear safeguards and security, $4,967,000.

(F) For naval reactors development, $54,000,000.

SEC. 3103. FUNDING LIMITATIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, not more than $220,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1990 for operating expenses and plant and capital equipment, $173,940,000 shall be available for the defense inertial confinement fusion program.

(c) SPECIAL ISOTOPE SEPARATION PROJECT.—(1) The funds authorized for Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, may not be used for construction or procurement of long-lead materials or equipment.

(2) The Secretary of Energy may transfer not more than $10,000,000 of the funds authorized for Project 86-D-148 to the funds authorized for Operating Expenses for activities in support of such project.

(3) No funds may be obligated for site preparation for Project 86-D-148 until the Secretary of Energy has certified to the Committees on Armed Services of the Senate and House of Representatives that obligation of funds for site preparation is—

(A) essential for the national security of the United States; and

(B) necessary to meet plutonium requirements.

(4) No additional funds may be obligated for construction, including site preparation, in connection with such project until the Secretary has certified to the Committees on Armed Services of the Senate and the House of Representatives that the technology for the special isotope separation project has been proven and that all environmental requirements provided in applicable laws have been met.

(d) LANCE WARHEAD FOLLOW-ON.—(1) Except as provided in paragraph (2), funds appropriated pursuant to the authorization contained in section 3101 may not be obligated for advanced development for any warhead for the design or development of a new warhead for the Follow-on To Lance (FOTL) missile.

(2) Funds referred to in paragraph (1) may be obligated for advanced development for a warhead for the FOTL missile only if the Secretary of Energy certifies to the Committees on Armed Services of the Senate and House of Representatives that—

(A) such warhead is a cost effective use of the W84 warhead, the W85 warhead, or both the W84 and W85 warheads, as the case may be; or

(B) neither the W84 or W85 warhead is compatible with the FOTL missile.

(3) Any certification submitted pursuant to paragraph (2) shall be accompanied by a detailed explanation of the reasons for such certification.

(4) For purposes of this paragraph, the term "advance development" with respect to the FOTL missile means work under phase 1 or work under phase 2, other than design work under phase 2A.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and the Committees on Appropriations of the

Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) In General.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3102 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) Exception.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

(a) In General.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) Specific Transfer.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1990 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 3103(a).

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) In General.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary of Energy may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 3102, the Secretary of Energy may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—TECHNOLOGY TRANSFER

National Competitiveness Technology Transfer Act of 1989.
15 USC 3701 note.

SEC. 3131. SHORT TITLE

This part may be cited as the "National Competitiveness Technology Transfer Act of 1989".

15 USC 3701 note.

SEC. 3132. FINDINGS AND PURPOSES

(a) FINDINGS.—Congress finds that—

(1) technology advancement is a key component in the growth of the United States industrial economy, and a strong industrial base is an essential element of the security of this country;

(2) there is a need to enhance United States competitiveness in both domestic and international markets;

(3) innovation and the rapid application of commercially valuable technology are assuming a more significant role in nearterm marketplace success;

(4) the Federal laboratories and other facilities have outstanding capabilities in a variety of advanced technologies and skilled scientists, engineers, and technicians who could contribute substantially to the posture of United States industry in international competition;

(5) improved opportunities for cooperative research and development agreements between contractor-managers of certain Federal laboratories and the private sector in the United States,

consistent with the program missions at those facilities, particularly the national security functions involved in atomic energy defense activities, would contribute to our national well-being; and

(6) more effective cooperation between those laboratories and the private sector in the United States is required to provide speed and certainty in the technology transfer process.

(b) PURPOSES.—The purposes of this part are to—

(1) enhance United States national security by promoting technology transfer between Government-owned, contractor-operated laboratories and the private sector in the United States; and

(2) enhance collaboration between universities, the private sector, and Government-owned, contractor-operated laboratories in order to foster the development of technologies in areas of significant economic potential.

SEC. 3133. AUTHORITY TO ENTER INTO COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS

(a) TECHNOLOGY TRANSFER ACTIVITIES.—Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)—

(A) by inserting ", and, to the extent provided in an agency-approved joint work statement, the director of any of its Government-owned, contractor-operated laboratories" after "Government-operated Federal laboratories";

(B) by striking "for Government-owned" and inserting in lieu thereof "(in the case of a Government-owned, contractor-operated laboratory, subject to subsection (c) of this section) for" in paragraph (2); and

(C) by striking "of Federal employees" in paragraph (2);

(2) in subsection (b)—

(A) by inserting ", and, to the extent provided in an agency-approved joint work statement, a Government-owned, contractor-operated laboratory," after "Government-operated Federal laboratory";

(B) by striking "a Federal" in paragraph (2) and inserting in lieu thereof "a laboratory"; and

(C) by inserting after paragraph (5) the following:

"A Government-owned, contractor-operated laboratory that enters into a cooperative research and development agreement under subsection (a)(1) may use or obligate royalties or other income accruing to such laboratory under such agreement with respect to any invention only (i) for payments to inventors; (ii) for the purposes described in section 14(a)(1)(B) (i), (ii), and (iv); and (iii) for scientific research and development consistent with the research and development mission and objectives of the laboratory.";

(3) in subsection (c)(3)(A), by striking "employee standards of conduct" and inserting in lieu thereof "standards of conduct for its employees";

(4) in subsection (c)(5)(A), by inserting "presented by the director of a Government-operated laboratory" after "any such agreement";

(5) in subsection (c)(5)(B), by inserting "by the director of a Government-operated laboratory" after "an agreement presented";

(6) in subsection (c)(5), by adding at the end the following new subparagraph:

"(C)(i) Any agency which has contracted with a non-Federal entity to operate a laboratory shall review and approve, request specific modifications to, or disapprove a joint work statement that is submitted by the director of such laboratory within 90 days after such submission. In any case where an agency has requested specific modifications to a joint work statement, the agency shall approve or disapprove any resubmission of such joint work statement within 30 days after such resubmission, or 90 days after the original submission, whichever occurs later. No agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before both approval of the agreement under clause (iv) and approval under this clause of a joint work statement.

"(ii) In any case in which an agency which has contracted with a non-Federal entity to operate a laboratory disapproves or requests the modification of a joint work statement submitted under this section, the agency shall promptly transmit a written explanation of such disapproval or modification to the director of the laboratory concerned.

"(iii) Any agency which has contracted with a non-Federal entity to operate a laboratory or laboratories shall develop and provide to such laboratory or laboratories one or more model cooperative research and development agreements, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling review of cooperative research and development agreements to be carried out in a routine and prompt manner.

"(iv) An agency which has contracted with a non-Federal entity to operate a laboratory shall review each agreement under this section. Within 30 days after the presentation, by the director of the laboratory, of such agreement, the agency shall, on the basis of such review, approve or request specific modification to such agreement. Such agreement shall not take effect before approval under this clause.

Reports.

"(v) If an agency fails to complete a review under clause (iv) within the 30-day period specified therein, the agency shall submit to the Congress, within 10 days after the end of that 30-day period, a report on the reasons for such failure. The agency shall, at the end of each successive 30-day period thereafter during which such failure continues, submit to the Congress another report on the reasons for the continuing failure. Nothing in this clause relieves the agency of the requirement to complete a review under clause (iv).

"(vi) In any case in which an agency which has contracted with a non-Federal entity to operate a laboratory requests the modification of an agreement presented under this section, the agency shall promptly transmit a written explanation of such modification to the director of the laboratory concerned.";

(7) in subsection (c), by adding at the end the following new paragraph:

Classified information.

"(7)(A) No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained in the conduct of research or as a result of activities under this Act from a non-Federal party participating in a cooperative research and development agreement shall be disclosed.

"(B) The director, or in the case of a contractor-operated laboratory, the agency, for a period of up to 5 years after development of information that results from research and development activities conducted under this Act and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code."; and

(8) in subsection (d)—

(A) by striking "and" at the end of paragraph (1);

(B) by amending paragraph (2) to read as follows:

"(2) the term 'laboratory' means—

"(A) a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government;

"(B) a group of Government-owned, contractor-operated facilities under a common contract, when a substantial purpose of the contract is the performance of research and development for the Federal Government; and

"(C) a Government-owned, contractor-operated facility that is not under a common contract described in subparagraph (B), and the primary purpose of which is the performance of research and development for the Federal Government,

but such term does not include any facility covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program; and"; and

(C) by adding at the end the following new paragraph:

"(3) the term 'joint work statement' means a proposal prepared for a Federal agency by the director of a Government-owned, contractor-operated laboratory describing the purpose and scope of a proposed cooperative research and development agreement, and assigning rights and responsibilities among the agency, the laboratory, and any other party or parties to the proposed agreement.".

(b) PRINCIPLES.—Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended by adding at the end the following new subsection:

"(g) PRINCIPLES.—In implementing this section, each agency which has contracted with a non-Federal entity to operate a laboratory shall be guided by the following principles:

"(1) The implementation shall advance program missions at the laboratory, including any national security mission.

"(2) Classified information and unclassified sensitive information protected by law, regulation, or Executive order shall be appropriately safeguarded.".

(c) TECHNICAL AMENDMENTS.—Section 14 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c) is amended—

(1) in subsection (a)(1), by inserting "by Government-operated Federal laboratories" after "entered into"; and by striking "11" and inserting in lieu thereof "12";

(2) in subsection (a)(1)(B)(ii), by inserting ", including payments to inventors and developers of sensitive or classified technology, regardless of whether the technology has commercial applications" after "that laboratory"; and

(3) in subsection (a)(1)(B)(iv), by striking "Government-operated".

15 USC 3710a note.

(d) Contract Provisions.—(1) Not later than 150 days after the date of enactment of this Act, each agency which has contracted with a non-Federal entity to operate a Government-owned laboratory shall propose for inclusion in that laboratory's operating contract, to the extent not already included, appropriate contract provisions that—

(A) establish technology transfer, including cooperative research and development agreements, as a mission for the laboratory under section 11(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980;

(B) describe the respective obligations and responsibilities of the agency and the laboratory with respect to this part and section 12 of the Stevenson-Wydler Technology Innovation Act of 1980;

(C) require that, except as provided in paragraph (2), no employee of the laboratory shall have a substantial role (including an advisory role) in the preparation, negotiation, or approval of a cooperative research and development agreement if, to such employee's knowledge—

(i) such employee, or the spouse, child, parent, sibling, or partner of such employee, or an organization (other than the laboratory) in which such employee serves as an officer, director, trustee, partner, or employee—

(I) holds a financial interest in any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement; or

(II) receives a gift or gratuity from any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement; or

(ii) a financial interest in any entity, other than the laboratory, that has a substantial interest in the preparation, negotiation, or approval of the cooperative research and development agreement, is held by any person or organization with whom such employee is negotiating or has any arrangement concerning prospective employment;

(D) require that each employee of the laboratory who negotiates or approves a cooperative research and development agreement shall certify to the agency that the circumstances described in subparagraph (C)(i) and (ii) do not apply to such employee;

(E) require the laboratory to widely disseminate information on opportunities to participate with the laboratory in technology transfer, including cooperative research and development agreements; and

(F) provides for an accounting of all royalty or other income received under cooperative research and development agreements.

(2) The requirements described in paragraph (1)(C) and (D) shall not apply in a case where the negotiating or approving employee advises the agency that reviewed the applicable joint work statement under section 12(c)(5)(C)(i) of the Stevenson-Wydler Technology Innovation Act of 1980 in advance of the matter in which he is to participate and the nature of any financial interest described in

paragraph (1)(C), and where the agency employee determines that such financial interest is not so substantial as to be considered likely to affect the integrity of the laboratory employee's service in that matter.

Reports.

(3) Not later than 180 days after the date of enactment of this Act, each agency which has contracted with a non-Federal entity to operate a Government-owned laboratory shall submit a report to the Congress which includes a copy of each contract provision amended pursuant to this subsection.

(4) No Government-owned, contractor-operated laboratory may enter into a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 unless—

(A) that laboratory's operating contract contains the provisions described in paragraph (1)(A) through (F); or

(B) such laboratory agrees in a separate writing to be bound by the provisions described in paragraph (1)(A) through (F).

(5) Any contract for a Government-owned, contractor-operated laboratory entered into after the expiration of 150 days after the date of enactment of this Act shall contain the provisions described in paragraph (1)(A) through (F).

(e) TECHNOLOGY TRANSFER FUNDING AND REPORT.—Section 11(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(b)) is amended—

(1) by striking "after September 30, 1981,";

(2) by striking "not less than 0.5 percent of the agency's research and development budget" and inserting in lieu thereof "sufficient funding, either as a separate line item or from the agency's research and development budget,";

(3) by striking "The agency head may waive" and all that follows through "waives such requirement, the" and inserting in lieu thereof "The"; and

(4) by striking "reasons for the waiver and alternate plans for conducting the technology transfer function at the agency." and inserting in lieu thereof "agency's technology transfer program for the preceding year and the agency's plans for conducting its technology transfer function for the upcoming year, including plans for securing intellectual property rights in laboratory innovations with commercial promise and plans for managing such innovations so as to benefit the competitiveness of United States industry.".

PART D—ENVIRONMENT, SAFETY, AND MANAGEMENT

SEC. 3141. DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM

42 USC 7274a.

Research and development.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and carry out a program of research for the development of technologies useful for (1) the reduction of environmental hazards and contamination resulting from defense waste, and (2) environmental restoration of inactive defense waste disposal sites.

(b) COORDINATION OF RESEARCH ACTIVITIES.—(1) In order to ensure nonduplication of research activities by the Department of Energy regarding technologies referred to in subsection (a), the Secretary shall coordinate the research activities of the Department of Energy relating to the development of such technologies with the research activities of the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies relating to the same matter.

(2) To the extent that funds are otherwise available for obligation, the Secretary may enter into cooperative agreements with the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies for the conduct of research for the development of technologies referred to in subsection (a).

(c) REPORT.—(1) The Secretary shall submit to Congress not later than April 1 each year a report on the research activities of the Department of Energy for the development of technologies referred to in subsection (a). The report shall cover such activities for the fiscal year preceding the fiscal year in which the report is submitted. The Secretary shall include in the report the following:

(A) A description and assessment of each research program being carried out by or for the Department of Energy and the identification of the individual laboratory, contractor, or institution of higher education responsible for the research program.

(B) An assessment of the extent to which (i) there are practical applications of the technologies being researched, and (ii) such technologies will likely facilitate compliance by the Department of Energy with applicable environmental laws and regulations.

(C) An accounting of the funds allocated to each research program and to each laboratory, contractor, or institution of higher education carrying out the research program.

(D) An assessment of the research projects that have been coordinated with the Environmental Protection Agency, the Department of Defense, and other appropriate Federal agencies pursuant to subsection (b).

(2) The first report required by paragraph (1) shall be submitted not later than April 1, 1990.

(d) DEFINITIONS.—As used in this section:

(1) The term "defense waste" means waste, including radioactive waste, resulting primarily from atomic energy defense activities of the Department of Energy.

(2) The term "inactive defense waste disposal site" means any site (including any facility) under the control or jurisdiction of the Secretary of Energy which is used for the disposal of defense waste and is closed to the disposal of additional defense waste, including any site that is subject to decontamination and decommissioning.

42 USC 7236.

SEC. 3142. EXECUTIVE MANAGEMENT TRAINING IN THE DEPARTMENT OF ENERGY

(a) ESTABLISHMENT OF TRAINING PROGRAM.—The Secretary of Energy shall establish and implement a management training program for personnel of the Department of Energy involved in the management of atomic energy defense activities.

(b) TRAINING PROVISIONS.—The training program shall at a minimum include instruction in the following areas:

(1) Department of Energy policy and procedures for management and operation of atomic energy defense facilities.

(2) Methods of evaluating technical performance.

(3) Federal and State environmental laws and requirements for compliance with such environmental laws, including timely compliance with reporting requirements in such laws.

(4) The establishment of program milestones and methods to evaluate success in meeting such milestones.

(5) Methods for conducting long-range technical and budget planning.

(6) Procedures for reviewing and applying innovative technology to environmental restoration and defense waste management.

SEC. 3143. MAJOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

42 USC 7271a.

(a) Major Program Defined.—In this section, the term "major Department of Energy national security program" means a research and development program (which may include construction and production activities), a construction program, or a production program—

(1) that is designated by the Secretary of Energy as a major Department of Energy national security program; or

(2) that is estimated by the Secretary of Energy to cost more than $500,000,000 (based on fiscal year 1989 constant dollars).

(b) Required Reports.—(1) Except as provided in paragraph (3), the Secretary of Energy shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives at the end of each calendar-year quarter a report on each major Department of Energy national security program.

(2) Each such report shall include, at a minimum, the following information:

(A) A description of the program, its purpose, and its relationship to the mission of the national security program of the Department of Energy.

(B) The program schedule, including estimated annual costs.

(C) A comparison of the current schedule and cost estimates with previous schedule and cost estimates, and an explanation of changes.

(3) A report under this section need not be submitted for the first, second, or third calendar-year quarter if the comparison between current schedule and cost estimates and schedule and cost estimates contained in the last submitted report shows that there has been—

(A) less than a 5 percent change in total program cost; and

(B) less than a 90-day delay in any significant schedule item of the program.

(c) Submission of Report.—Each report under this section shall be submitted not later than 30 days after the end of each calendar-year quarter. The first report shall cover the fourth quarter of 1989 and shall be submitted not later than January 30, 1990.

Reports.

(d) Identification of Programs.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives that identifies all programs of the Department of Energy that are major Department of Energy national security programs, as defined in subsection (a).

SEC. 3144. FIVE-YEAR BUDGET PLAN REQUIREMENT

42 USC 7271b.

(a) Plan Requirement.—The Secretary of Energy each year shall prepare a five-year budget plan for the national security programs of the Department of Energy. The plan shall contain the estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the national security programs and shall be at a level of detail comparable to that contained in the budget submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) SUBMISSION OF PLAN.—The Secretary shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives the plan required under subsection (a) at the same time as the President submits to Congress the budget pursuant to section 1105 of title 31, United States Code.

PART E—MISCELLANEOUS PROVISIONS

42 USC 7256b.

SEC. 3151. PROHIBITION AND REPORT ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES

(a) PROHIBITION.—The Secretary of Energy may not provide any bonuses, award fees, or other form of performance- or production-based awards to a contractor operating a Department of Energy defense nuclear facility unless, in evaluating the performance or production under the contract, the Secretary considers the contractor's compliance with all applicable environmental, safety, and health statutes, regulations, and practices for determining both the size of, and the contractor's qualification for, such bonus, award fee, or other award. The prohibition in this subsection applies with respect to contracts entered into, or contract options exercised, after the date of the enactment of this Act.

(b) REPORT ON ROCKY FLATS BONUSES.—The Secretary of Energy shall investigate the payment, from 1981 to 1988, of production bonuses to Rockwell International, the contractor operating the Rocky Flats Plant (Golden, Colorado), for purposes of determining whether the payment of such bonuses was made under fraudulent circumstances. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of that investigation, including the Secretary's conclusions and recommendations.

(c) DEFINITION.—In this section, the term "Department of Energy defense nuclear facility" has the meaning given such term by section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286g).

(d) REGULATIONS.—The Secretary of Energy shall promulgate regulations to implement subsection (a) not later than 90 days after the date of the enactment of this Act.

SEC. 3152. PREFERENCE FOR ROCKY FLATS WORKERS

In any contract awarded by the Secretary of Energy to carry out any cleanup, decontamination, or decommissioning of the Rocky Flats Plant (Golden, Colorado), the Secretary of Energy shall require the contractor to give first preference in hiring employees to those employees who worked at the Rocky Flats Plant before it was closed and who are qualified to carry out the duties of the positions, as determined by the contractor.

SEC. 3153. AUTHORIZATION AND FUNDING FOR ROCKY FLATS AGREEMENT

(a) AUTHORIZATION.—(1) Using funds available pursuant to subsection (b), the Secretary of Energy shall make such payments as may be necessary—

(A) to carry out the agreement entered into on June 16, 1989, between the Department of Energy and the State of Colorado with respect to the Rocky Flats Plant; and

Colorado.

(B) to enable the State of Colorado to provide such assistance to the Colorado communities described in paragraph (2) as is necessary to ensure, through testing and related activities, that the drinking water of those communities is safe, pure, and clean.

Water.

(2) The Colorado communities referred to in paragraph (1)(B) are those communities whose water supply flows through, runs off, or is otherwise affected by air or water emissions of, the Rocky Flats Plant.

(b) FUNDING.—Of the funds appropriated to the Department of Energy for fiscal year 1990 pursuant to the authorization in this title for environmental restoration and management of defense waste, not more than $3,435,000 may be obligated to carry out the agreement referred to in subsection (a)(1)(A) and to provide for testing and related activities authorized under subsection (a)(2).

SEC. 3154. MORATORIUM ON INCINERATION OF RADIOACTIVE WASTE AT LOS ALAMOS NATIONAL LABORATORY

The Los Alamos National Laboratory is prohibited from incinerating radioactive waste, including any waste containing radioactive constituents, until the earlier of the following dates:

(1) August 1, 1990.

(2) The date on which the State of New Mexico adopts regulations on emissions resulting from the incineration of radioactive waste.

SEC. 3155. PRODUCTION OF THE 155-MILLIMETER ARTILLERY-FIRED, ATOMIC PROJECTILE

Section 1635 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2649), is amended—

(1) in subsection (b), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", not including amounts spent exclusively to ensure the safety and security of the warheads."; and

(2) by adding at the end the following new subsection:

"(d) The Secretary of Energy and the Secretary of Defense shall jointly submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section and shall include in such report the number of projectiles referred to in subsection (b) that have been produced and the total amount obligated for the production of such projectiles. Such report shall be submitted at the same time that the President submits the budget for fiscal year 1991 to Congress pursuant to section 1105 of title 31, United States Code.".

Reports.

SEC. 3156. REPORTS IN CONNECTION WITH PERMANENT CLOSURES OF DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES

42 USC 7274b.

(a) TRAINING AND JOB PLACEMENT SERVICES PLAN.—Not later than 120 days before a Department of Energy defense nuclear facility (as defined in section 318 of the Atomic Energy Act of 1954 (42 U.S.C. 2286(g)) permanently ceases all production and processing operations, the Secretary of Energy must submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a discussion of the training and job placement services needed to enable the employees at such facility to obtain employment in the environmental remediation and cleanup activities at such facility. The discussion shall include the actions that should be taken by the contractor operating and managing such facility to provide retraining and job placement services to employees of such contractor.

(b) CLOSURE REPORT.—Upon the permanent cessation of production operations at a Department of Energy defense nuclear facility, the Secretary of Energy shall submit to Congress a report containing—

(1) a complete survey of environmental problems at the facility;

(2) budget quality data indicating the cost of environmental restoration and other remediation and cleanup efforts at the facility; and

(3) a discussion of the proposed cleanup schedule.

SEC. 3157. DEFENSE PROGRAM MISSIONS

Section 91 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2121(a)) is amended—

(1) by striking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(3) provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs;

"(4) carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons; and

"(5) under applicable law (other than this paragraph) and consistent with other missions of the Department of Energy, make transfers of federally owned or originated technology to State and local governments, private industry, and universities or other nonprofit organizations so that the prospects for commercialization of such technology are enhanced.".

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION

There are authorized to be appropriated for fiscal year 1990 $7,000,000 for the establishment and operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

PART A—CHANGES IN STOCKPILE AMOUNTS

SEC. 3301. CHANGES IN STOCKPILE REQUIREMENTS

50 USC 98b note.

Pursuant to section 3(c)(4) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(4)), the National Defense Stockpile Manager may revise quantities of materials to be stockpiled under that Act in accordance with the following table:

Material	Current quantity	Revised quantity
Aluminum oxide, abrasive grain group	638,000 short tons (contained)	374,000 short tons (contained)
Antimony	36,000 short tons	88,500 short tons
Asbestos, amosite	17,000 short tons	0 short tons
Bauxite, refractory	1,400,000 long calcined tons	1,240,000 long calcined tons
Bismuth	2,200,000 pounds	1,060,000 pounds
Chromite, refractory grade ore	850,000 short dry tons	695,000 short dry tons
Columbium group	4,850,000 pounds (contained)	12,520,000 pounds (contained)
Diamond, industrial group	29,730,000 carats	7,730,000 carats
Fluorspar, acid grade	1,400,000 short dry tons	900,000 short dry tons
Fluorspar, metallurgical grade	1,700,000 short dry tons	310,000 short dry tons
Graphite, natural, malagasy, crystalline	20,000 short tons	14,200 short tons
Graphite, natural, other than Ceylon and Malagasy	2,800 short tons	1,930 short tons
Manganese, battery grade group	87,000 short dry tons	50,000 short dry tons
Mica, muscovite block, stained and better	6,200,000 pounds	2,500,000 pounds
Natural insulation fibers	1,500,000 pounds	0 pounds
Platinum group metals, iridium	98,000 troy ounces	86,000 troy ounces
Platinum group metals, palladium	3,000,000 troy ounces	2,150,000 troy ounces
Quartz crystals	600,000 pounds	240,000 pounds
Talc, steatite block and lump	28 short tons	0 short tons
Tungsten group	50,666,000 pounds (contained)	70,900,000 pounds (contained)

SEC. 3302. AUTHORIZED DISPOSALS

42 USC 98d note.

(a) AUTHORITY.—During fiscal years 1990 and 1991, the National Defense Stockpile Manager may dispose of materials in the National Defense Stockpile in accordance with this section. The value of materials disposed of may not exceed $180,000,000 during each of such fiscal years, and such disposal may be made only as specified in subsection (b).

(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal under subsection (a) shall be made from quantities of materials in the National Defense Stockpile previously authorized for disposal by law or, in the case of materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile, in accordance with the following table:

Material	Quantities
Asbestos, amosite	34,000 short tons
Bismuth	255,400 pounds
Diamond, industrial, crushing bort	8,000,000 carats
Fluorspar, metallurgical grade	15,000 short dry tons
Graphite, natural, Malagasy, crystalline	3,635 short tons
Graphite, natural, other than Ceylon and Malagasy	873 short tons
Mercury	15,000 flasks
Mica, muscovite block, stained and better	10,000 pounds
Silicon carbide	690 short tons
Talc, block and lump	28 short tons
Tin	5,000 metric tons

(c) ADDITIONAL AUTHORITY.—The disposal authority provided in subsection (a) is in addition to any other disposal authority provided by law.

(d) LIMITATION ON DISPOSALS DURING FISCAL YEARS 1990 AND 1991.—The National Defense Stockpile Manager may dispose of materials under this section during each of the fiscal years 1990 and 1991 only to the extent that the total amount received (or to be received) from such disposals for each such fiscal year does not exceed the amount obligated from the National Defense Stockpile Transaction Fund during such fiscal year for the purposes authorized under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

SEC. 3303. AUTHORIZATION OF ACQUISITIONS

(a) ACQUISITIONS.—During each of the fiscal years 1990 and 1991, the National Defense Stockpile Manager shall obligate $180,000,000 out of funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) UPGRADE PROGRAMS.—Of the amount specified in subsection (a), at least $30,000,000 shall be obligated during each of such fiscal years for programs not already required by law for upgrading stockpile materials.

President of U.S.

PART B—PROGRAMMATIC CHANGES

SEC. 3311. STRATEGIC AND CRITICAL MATERIALS DEVELOPMENT, RESEARCH, AND CONSERVATION

Section 8 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98g) is amended by adding at the end the following new subsections:

"(c) The President shall make scientific, technologic, and economic investigations concerning the feasibility of—

"(1) developing domestic sources of supply of materials (other than materials referred to in subsections (a) and (b)) determined pursuant to section 3(a) to be strategic and critical materials; and

"(2) developing or using alternative methods for the refining or processing of a material in the stockpile so as to convert such material into a form more suitable for use during an emergency or for storage.

"(d) The President shall encourage the conservation of domestic sources of any material determined pursuant to section 3(a) to be a strategic and critical material by making grants or awarding contracts for research regarding the development of—

"(1) substitutes for such material; or

"(2) more efficient methods of production or use of such material.".

SEC. 3312. DEVELOPMENT OF DOMESTIC SOURCES

(a) AUTHORITY OF THE PRESIDENT.—The Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.) is amended by adding at the end the following new section:

"DEVELOPMENT OF DOMESTIC SOURCES

President of U.S.
50 USC 98h-6.

"SEC. 15. (a) Subject to subsection (c) and to the extent the President determines such action is required for the national defense, the President shall encourage the development of domestic sources for materials determined pursuant to section 3(a) to be strategic and critical materials—

"(1) by purchasing, or making a commitment to purchase, strategic and critical materials of domestic origin when such materials are needed for the stockpile; and

"(2) by contracting with domestic facilities, or making a commitment to contract with domestic facilities, for the processing or refining of strategic and critical materials in the stockpile when processing or refining is necessary to convert such materials into a form more suitable for storage and subsequent disposition.

"(b) A contract or commitment made under subsection (a) may not exceed five years from the date of the contract or commitment. Such purchases and commitments to purchase may be made for such quantities and on such terms and conditions, including advance payments, as the President considers to be necessary.

"(c)(1) Descriptions of proposed transactions under subsection (a) shall be included in the appropriate annual materials plan submitted to Congress under section 11(b). Changes to any such transaction, or the addition of a transaction not included in such plan, shall be made in the manner provided by section 5(a)(2).

"(2) The authority of the President to enter into obligations under this section is effective for any fiscal year only to the extent that funds in the National Defense Stockpile Transaction Fund are adequate to meet such obligations. Payments required to be as a result of obligations incurred under this section shall be made from amounts in the fund.

"(d) The authority of the President under subsection (a) includes the authority to pay—

"(1) the expenses of transporting materials; and

"(2) other incidental expenses related to carrying out such subsection.

"(e) The President shall include in the reports required under section 11(a) information with respect to activities conducted under this section.".

(b) USE OF NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.—Section 9(b)(2) of such Act (50 U.S.C. 98h(b)(2)) is amended by adding at the end the following new subparagraph:

"(F) Activities authorized under section 15.".

SEC. 3313. NATIONAL DEFENSE STOCKPILE MANAGER

50 USC 98e-1, 98h-7.

(a) REDESIGNATION AND TRANSFER OF SECTION.—Section 6A of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e-1) is—

(1) transferred to appear after section 15 of such Act (as added by section 3312); and

(2) redesignated as section 16.

50 USC 98h-7.

(b) AUTHORITY OF THE PRESIDENT.—Such section (as redesignated and transferred) is amended—

(1) by striking out "sections 7, 8, and 13" each place it appears and inserting in lieu thereof "sections 7 and 13";

(2) by adding at the end of subsection (c) the following new sentence: "The President may not delegate functions of the President under sections 7 and 13."; and

(3) by striking out "section 6(b) or 6(d)" in subsection (d) and inserting in lieu thereof "section 6(a)(6)".

SEC. 3314. AUTHORITY TO DISPOSE OF MATERIALS IN THE STOCKPILE FOR INTERNATIONAL CONSUMPTION

Section 6 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e) is amended—

(1) in subsection (b)—

(A) by striking out paragraph (3);

(B) by inserting "and" at the end of paragraph (1); and

(C) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(2) by striking out "paragraph (1), (2), or (3)" in subsection (d) and inserting in lieu thereof "paragraph (1) or (2)".

SEC. 3315. INFORMATION INCLUDED IN REPORTS TO CONGRESS

Section 11(a)(5) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-2(a)(5)) is amended by striking out "made from the fund" and inserting in lieu thereof "made to the fund, and obligations to be made from the fund,".

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated $151,535,000 for fiscal year 1990 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

Panama Canal Commission Authorization Act, Fiscal Year 1990.

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE

This title may be referred to as the "Panama Canal Commission Authorization Act, Fiscal Year 1990".

SEC. 3502. AUTHORIZATION OF EXPENDITURES

(a) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.), for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1990, except that not more than $52,000 for such fiscal year may be expended for official reception and representation functions, of which—

(1) not more than $12,000 may be expended for such purposes by the supervisory board for the Commission;

(2) not more than $6,000 may be expended for such purposes by the Secretary of the Commission; and

(3) not more than $34,000 may be expended for such purposes by the Administrator of the Commission.

(b) Purchase of Passenger Motor Vehicles.—Funds available to the Panama Canal Commission shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport personnel of the Commission across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 3503. NOTIFICATION REQUIREMENTS

22 USC 3872.

The Panama Canal Commission shall provide written advance notification to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Armed Services of the Senate regarding—

(1) any proposed change in the rates of tolls for use of the Panama Canal;

(2) any payment estimated to be due the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, as provided by section 1341 of the Panama Canal Act of 1979 (22 U.S.C. 3751); and

(3) the initiation of any major capital acquisition or construction project exceeding $10,000,000 unless the proposed acquisition or project was included in the budget estimates submitted to Congress for the fiscal year in which the acquisition or project is to be undertaken.

SEC. 3504. GENERAL PROVISIONS

(a) Pay Increases.—Funds for the Panama Canal Commission may be obligated, notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) Expenses in Accordance With Law.—Expenditures authorized under this title may be made only in accordance with the

Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

Approved November 29, 1989.

LEGISLATIVE HISTORY—H.R. 2461 (S. 1352) (S. 1445) (S. 1446):

HOUSE REPORTS: No. 101-121 (Comm. on Armed Services) and No. 101-331 (Comm. of Conference).
SENATE REPORTS: No. 100-81 accompanying S. 1352 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 24-27, considered and passed House. S. 1352 considered in Senate.
July 31, Aug. 1, S. 1352 considered in Senate.
Aug. 2, S. 1352 and S. 1446 considered and passed Senate.
Aug. 4, H.R. 2461 considered and passed Senate, amended, in lieu of S. 1352.
Nov. 9, House agreed to conference report.
Nov. 15, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENT, Vol. 25 (1989):
Nov. 29, Presidential statement.

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Public Law 101-190
101st Congress

An Act

To provide for the construction of biomedical facilities in order to ensure a continued supply of specialized strains of mice essential to biomedical research in the United States, and for other purposes.

Nov. 29, 1989
[S. 1390]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR CONTRACT FOR CONSTRUCTION OF BIOMEDICAL RESEARCH FACILITIES.

42 USC 289e note.

(a) In General.—Of the aggregate amounts appropriated for fiscal years 1990 and 1991 to carry out the purposes of title IV of the Public Health Service Act through the National Institutes of Health, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, may reserve not more than $25,000,000 for entering into a contract with a public or nonprofit private entity for constructing facilities for the purpose of the development and breeding of specialized strains of mice (including inbred and mutant mice) for use in biomedical research.

(b) Competitive Award Process.—The contract under subsection (a) may be awarded only on a competitive basis after review in accordance with section 4(a).

SEC. 2. TWENTY-YEAR OBLIGATION WITH RESPECT TO BREEDING OF SPECIALIZED MICE FOR BIOMEDICAL RESEARCH.

42 USC 289e note.

(a) In General.—The Secretary may not enter into a contract under section 1 unless, subject to subsection (b), the applicant for the contract agrees that—

(1) throughout the 20-year period beginning 90-days after the date of the completion of the construction of facilities pursuant to the contract, the facilities will be utilized only for the purpose described in section 1(a);

(2) during such period, the applicant will, to the extent practicable, develop and breed such mice in numbers sufficient to assist in meeting the need for such mice in biomedical research conducted or supported by the Secretary; and

(3) during such period, the applicant will, upon the request of the Secretary, sell such mice to the Secretary for purposes of such research at a price reasonably related to the cost of the production of the mice.

(b) Transfer of Obligation.—

(1) In general.—With respect to the obligation under subsection (a), the contractor under section 1 (and any transferee or purchaser under this subsection) may—

(A) transfer the obligation to a public or nonprofit private entity if the proposed transferee has entered into a contract with the Secretary to assume the obligation; and

(B) convey its interest in the facilities involved if the proposed purchaser of the interest is a public or nonprofit entity that has entered into a contract with the Secretary to assume the obligation.

(2) TRANSFER PRIOR TO COMPLETION OF CONSTRUCTION.—If, for purposes of paragraph (1), a transfer or conveyance is proposed to be made before the completion of the construction of facilities pursuant to section 1, the Secretary may not authorize the transfer or conveyance unless the agreement involved provides that the transferee or purchaser will assume all remaining responsibilities under any agreements made pursuant to this Act by the contractor under such section and the Federal Government.

(3) TERMINATION OF OBLIGATION.—If, for purposes of paragraphs (1) and (2), a transfer or conveyance is made in accordance with such paragraphs, the obligation pursuant to subsection (a), and all other responsibilities pursuant to this Act, of the transferor involved shall terminate.

(c) REQUIREMENT OF STATUS AS PUBLIC OR NONPROFIT PRIVATE ENTITY.—The Secretary may not enter into any agreement under subsection (a) or (b) unless the agreement provides that the obligation involved includes the requirement that the obligation may be satisfied only by a public or nonprofit private entity.

(d) ASSURANCES OF SUFFICIENT FINANCIAL RESOURCES.—

(1) ORIGINAL CONTRACTOR.—The Secretary may not enter into a contract under section 1 unless the applicant for the contract provides assurances satisfactory to the Secretary that, throughout the 20-year period described in subsection (a), the applicant will have access to financial resources sufficient to comply with the agreement under such subsection.

(2) TRANSFEREES AND PURCHASERS.—The Secretary may not approve a transfer or conveyance under subsection (b) unless the transferee or purchaser provides assurances satisfactory to the Secretary that, throughout the remaining portion of the 20-year period described in subsection (a), the transferee or purchaser will have access to financial resources sufficient to comply with its obligation pursuant to such subsection.

42 USC 289e note.

SEC. 3. REQUIREMENT OF MATCHING FUNDS.

(a) IN GENERAL.—The Secretary may not enter into a contract under section 1 unless the applicant for the contract agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such section, to make available (directly or through donations from public or private entities) contributions toward such costs in an amount equal to $1 for each $3 of Federal funds provided pursuant to the contract under section 1.

(b) DETERMINATION OF AMOUNT OF CONTRIBUTION.—Contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including existing plant and equipment or services throughout the 20-year period described in section 2(a)(1) (and including such specialized strains of mice as the Secretary may request for purposes of biomedical research). Amounts provided by any agency of the Federal Government other than the Department of Health and Human Services, and services assisted or subsidized by any such agency, shall be included in the amount of such contributions.

42 USC 289e note.

SEC. 4. ADDITIONAL REQUIREMENTS.

(a) SUBMISSION AND APPROVAL OF CONSTRUCTION PLAN.—

(1) IN GENERAL.—The Secretary may not enter into a contract under section 1 unless the applicant for the contract submits to the Secretary a plan for the construction of facilities pursuant to such section and unless the Secretary approves the plan. The Secretary may not approve such a plan unless the plan has been recommended for approval by the panel convened under paragraph (2)(A).

(2) EXPERT PANEL FOR ADVISING SECRETARY WITH RESPECT TO PLAN.—

(A) The Secretary shall convene a panel of appropriately qualified individuals for the purpose of providing architectural, financial, and scientific advice to the Secretary regarding appropriate standards and specifications for the construction, financing, and use of facilities pursuant to section 1. The panel may not approve a plan submitted under paragraph (1) unless the panel determines that amounts provided in the contract under section 1 will not, during the twenty-year period described in section 2(a), be expended to increase significantly, relative to April 1989, the sale of mice other than mutant and inbred strains of mice necessary for the conduct of biomedical research.

(B) Members of the panel convened under paragraph (1) who are officers or employees of the United States may not receive compensation for service on the panel in addition to the compensation otherwise received for duties carried out as such officers or employees. Other members of such panel shall receive compensation for each day (including traveltime) engaged in carrying out the duties of the panel. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

(b) SITE OF CONSTRUCTION.—The Secretary may not enter into a contract under section 1 unless—

(1) the applicant for the contract provides to the Secretary a description of the site for the construction of facilities pursuant to such section; and

(2) the Secretary determines that title to the site is vested in the applicant or that the applicant has a sufficient possessory interest in such site for the twenty-year period described in section 2(a).

(c) REQUIREMENT OF APPLICATION.—The Secretary may not enter into a contract under section 1 unless—

(1) an application for the contract is submitted to the Secretary;

(2) the application contains the agreements required in this Act and provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this Act.

SEC. 5. FAILURE TO COMPLY WITH AGREEMENTS.

42 USC 289e note.

(a) REPAYMENT OF PAYMENTS.—

(1) IN GENERAL.—The Secretary may, subject to subsection (c), require the contractor under section 1 to repay any payments received under such section by the contractor that the Secretary

determines were not expended by the contractor in accordance with the agreements required to be contained in the application submitted by the contractor pursuant to section 4(c).

(2) OFFSET AGAINST CURRENT PAYMENTS.—If a contractor under section 1 fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid under such section to the contractor.

(b) WITHHOLDING OF PAYMENTS.—

(1) IN GENERAL.—The Secretary may, subject to subsection (c), withhold payments due under section 1 if the Secretary determines that the contractor under such section is not expending payments received under such section in accordance with the agreements required to be contained in the application submitted by the contractor pursuant to section 4(c).

(2) TERMINATION OF WITHHOLDING.—The Secretary shall cease withholding payments under paragraph (1) if the Secretary determines that there are reasonable assurances that the contractor under section 1 will expend amounts received under such section in accordance with the agreements referred to in such paragraph.

(3) EFFECT OF MINOR NONCOMPLIANCE.—The Secretary may not withhold funds under paragraph (1) from the contractor under section 1 for a minor failure to comply with the agreements referred to in such paragraph.

(c) OPPORTUNITY FOR HEARING.—Before requiring repayment of payments under subsection (a)(1), or withholding payments under subsection (b)(1), the Secretary shall provide to the contractor under section 1 an opportunity for a hearing conducted within the State in which facilities are constructed pursuant to such section.

42 USC 289e note.

SEC. 6. RECOVERY PROCEEDINGS FOR VIOLATION OF REQUIREMENT WITH RESPECT TO MINIMUM PERIOD OF BREEDING OF SPECIALIZED MICE.

(a) RIGHT OF RECOVERY.—If the contractor under section 1, or any transferee or purchaser under section 2, violates its obligation under such section (including any violation under subsection (c) of such section), the United States shall be entitled to recover an amount equal to the sum of—

(1) an amount determined in accordance with paragraph (1)(A) of subsection (b); and

(2) an amount determined in accordance with paragraph (2)(A) of such subsection.

(b) DETERMINATION OF AMOUNTS.—

(1) FEDERAL PERCENTAGE OF FAIR MARKET VALUE.—

(A) The amount referred to in paragraph (1) of subsection (a) is the product of—

(i) an amount equal to the fair market value, during the period in which recovery is sought under subsection (a), of the facilities constructed pursuant to section 1, as determined in accordance with subparagraph (B); and

(ii) a percentage equal to the quotient of—

(I) the total amounts provided by the Federal Government for the construction of such facilities; divided by

(II) the total costs of the construction of such facilities.

(B) For purposes of subparagraph (A)(i), fair market value shall be determined through—

(i) an agreement entered into by the United States and the entity from whom the United States is seeking recovery under subsection (a); or

(ii) an action brought in the district court of the United States for the district in which the facilities involved are located.

(2) INTEREST.—

(A) The amount referred to in paragraph (2) of subsection (a) is an amount representing interest on the amount determined under paragraph (1). Such interest shall accrue during the period described in subparagraph (B) and shall accrue at a rate determined by the Secretary on the basis of the average of the bond equivalent of the weekly 90-day Treasury bill auction rate.

(B) The period referred to in subparagraph (A) is the period—

(i) beginning on the date of the violation of the obligation under section 2, or if the entity involved provides notice to the Secretary of the violation not later than 10 days after the date of the violation, beginning on the expiration of the 180-day period beginning on the date that the notice is received by the Secretary; and

(ii) ending on the date on which the United States collects the amount determined under paragraph (1).

(c) WAIVER OF RECOVERY RIGHTS.—The Secretary may waive, in whole or in part, the right of the United States to recover amounts under this section for good cause shown, as determined by the Secretary.

(d) CLARIFICATION WITH RESPECT TO LIEN ON FACILITIES.—The right of recovery of the United States under subsection (a) shall not constitute a lien on the facilities involved with respect to which such recovery is sought.

SEC. 7. DEFINITION.

42 USC 289e note.

For purposes of this Act, the term "Secretary" means the Secretary of Health and Human Services.

SEC. 8. TECHNICAL AMENDMENT WITH RESPECT TO AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Section 496 of the Public Health Service Act (42 U.S.C. 289e) is amended—

(1) by striking the first sentence;

(2) by inserting "(a)" after the section designation; and

(3) by adding at the end the following new subsection:

"(b)(1) None of the amounts appropriated under this Act for the purposes of this title may be obligated for the construction of facilities (including the acquisition of land) unless a provision of this title establishes express authority for such purpose and unless the Act making appropriations under such provision specifies that the amounts appropriated are available for such purpose.

"(2) Any grants, cooperative agreements, or contracts authorized in this title for the construction of facilities may be awarded only on a competitive basis.".

Approved November 29, 1989.

LEGISLATIVE HISTORY—S. 1390:

SENATE REPORTS: No. 101-101 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Aug. 4, considered and passed Senate.
  Nov. 13, considered and passed House, amended.
  Nov. 16, Senate concurred in House amendments.

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Public Law 101-191
101st Congress

An Act

To authorize the Secretary of the Interior to provide for the development of a trails interpretation center in the city of Council Bluffs, Iowa, and for other purposes.

Nov. 29, 1989
[S. 338]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

16 USC 1244 note.

(a) FINDINGS.—The Congress finds that—

(1) the nineteenth century American westward movement was an important cultural event in shaping the postcolonial history of the United States;

(2) the nineteenth century American westward movement consisted of journeys along a system of trails across the American continent by pioneers, explorers, religious groups, and scientists; and

(3) additional recognition and interpretation is appropriate in light of the national scope of the nineteenth century American westward movement.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the system of western trails established in furtherance of the National Trails System Act because of their national historic and cultural significance; and

(2) to provide the public with an interpretive facility devoted to the vital role of the western trails in the development of the United States.

SEC. 2. AUTHORIZATION FOR THE DEVELOPMENT OF A TRAILS INTERPRETATION CENTER.

16 USC 1244 note.

(a) AUTHORIZATION.—In furtherance of the purposes of section 7(c) of the National Trails System Act (16 U.S.C. 1246(c)), the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to provide for a trails interpretation center (hereinafter referred to as the "center") in the city of Council Bluffs, Iowa, for the purpose of interpreting the history of development and use in the State of Iowa and the adjacent region of the Lewis and Clark National Historic Trail, the Mormon Pioneer National Historic Trail, and the Oregon National Historic Trail.

(b) PLAN AND DESIGN.—(1) Within 18 months after the date of the enactment of this Act, the Secretary, after consultation with the Governor of Iowa and in cooperation with such other public, municipal, and private entities as may be necessary and appropriate, shall complete a plan and design for the center, including the following:

(A) a detailed description of the design of the facility;

(B) a description of the site;

(C) the method of acquisition;

(D) the estimated cost of acquisition, construction, operation and maintenance; and

(E) the manner and extent to which non-Federal entities shall participate in the acquisition, construction, operation, and maintenance of the center.

(2) In the development of the plan and design for the center the Secretary shall take into consideration the report and plans prepared by The Western Historic Trails, Inc., and shall provide an opportunity for public comment.

(3) Upon completion, the Secretary shall submit the plan to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

Real property.
Gifts and property.

(c) IMPLEMENTATION.—In order to implement the plan and design under subsection (b) of this section, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, for the construction of the center authorized in subsection (a). Federal funds to carry out this section may only be expended on a two-for-one matching basis with non-Federal funds, services, materials, or lands, fairly valued as determined by the Secretary, or any combination thereof.

(d) AGREEMENT FOR THE OPERATION AND MAINTENANCE OF CENTER.—Before undertaking the construction of the center, the Secretary shall enter into a binding agreement with a qualified non-Federal entity for conveyance by deed or lease from the Secretary of any structure or property acquired and developed as provided for by this Act. Any such agreement shall provide that—

(1) the non-Federal entity agree to operate and maintain the center and make no major alteration of the structure or grounds without the express written authorization of the Secretary;

(2) a plan of operations shall be submitted that is satisfactory to the Secretary;

(3) the Secretary shall have access to documents relating to the operation and maintenance of the center;

(4) the Secretary shall have the right of access to the center; and

(5) the United States shall be held harmless from all events arising from the operation and maintenance of the center.

(e) COOPERATIVE AGREEMENTS FOR TECHNICAL ASSISTANCE.—The Secretary may enter into cooperative agreements with the State of Iowa, the city of Council Bluffs, and other public or private entities to provide technical assistance with respect to the center.

(f) SATISFACTION OF ECONOMIC DEVELOPMENT ADMINISTRATION RESTRICTIONS.—Any restrictions, covenants, reversions, limitations, or any other conditions imposed by the Economic Development Administration relating to or affecting the use, transfer, or other disposition of any land which is conveyed to the Secretary for the purpose of developing the center under this section shall be extinguished upon the acceptance of such donation by the Secretary.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

16 USC 1244 note.

There is authorized to be appropriated not more than $8,400,000 to carry out this Act.

Approved November 29, 1989.

LEGISLATIVE HISTORY—S. 338 (H.R. 952):

HOUSE REPORTS: No. 101-146 accompanying H.R. 952 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-62 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
- July 14, considered and passed Senate.
- July 17, H.R. 952 considered and passed House.
- Nov. 17, S. 338 consider and passed House, amended. Senate concurred in House amendment.

Public Law 101-192
101st Congress

An Act

Nov. 29, 1989
[S. 737]

To adjust the boundary of Rocky Mountain National Park.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY ADJUSTMENT.

Gifts and property.
Real property.
Public information.
16 USC 192b-10.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire, by donation, purchase with donated or appropriated funds, or by exchange, lands or interests therein within the area generally depicted as "Proposed Park Additions" on the map entitled "Proposed Park Additions, Rocky Mountain National Park", numbered 121-80, 106-A and dated May, 1989, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Upon acquisition of such lands, the Secretary shall revise the boundary of Rocky Mountain National Park to include such lands within the park boundary and shall administer such lands as part of the park subject to the laws and regulations applicable thereto.

(b) BOUNDARY ADJUSTMENT FOR ROOSEVELT NATIONAL FOREST.—Upon acquisition of such lands by the Secretary, the Secretary of Agriculture shall revise the boundary of the Roosevelt National Forest to exclude such lands from the national forest boundary.

Colorado.

(c) AGREEMENT.—The Secretary is authorized to enter into an agreement with the owner of the lands identified as Tract 1127 and 1127B4, Section 23, Township 3 North, Range 73, Boulder County, Colorado, within the boundaries of Rocky Mountain National Park, to ensure the right of use as a single family residence, unless said property is being developed or is officially proposed to be developed by the owners in a manner which would substantially change its use.

Approved November 29, 1989.

LEGISLATIVE HISTORY—S. 737 (H.R. 1606):

HOUSE REPORTS: No. 101-252, accompanying H.R. 1606 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-74 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 15, considered and passed Senate.
Sept. 25, H.R. 1606 considered and passed House; proceedings vacated and S. 737, amended, passed in lieu.
Nov. 15, Senate concurred in House amendments with an amendment.
Nov. 17, House concurred in Senate amendment.

○

Public Law 101-193
101st Congress

An Act

To authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Nov. 30, 1989
[H.R. 2748]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1990".

Intelligence Authorization Act, Fiscal Year 1990.

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1990 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1990, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 2748 of the One Hundred First Congress. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

President of U.S.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1990 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1990 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1990 the sum of $26,900,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized 240 full-time personnel as of September 30, 1990. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1990, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1990, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1990, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1990 the sum of $154,900,000.

ELIGIBILITY FOR ANNUITY

SEC. 302. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by redesignating section 236 as section 237; and 50 USC 403 note.

(2) by inserting after section 235 the following new section:

"ELIGIBILITY FOR ANNUITY

"SEC. 236. A participant must complete, within the last two years before any separation from service, except a separation because of death or disability, at least one year of creditable civilian service during which he or she is subject to this title before he or she or his or her survivors are eligible for an annuity under this title based on the separation. If a participant, except a participant separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from his or her pay during the period for which no eligibility is established based on the separation shall be returned to him or her on the separation. Failure to meet this service requirement does not deprive the individual or his or her survivors of annuity rights which attached on a previous separation.".

PRECEDENCE OF SECTION 224 SURVIVOR BENEFITS OVER SECTION 232 DEATH-IN-SERVICE BENEFITS

SEC. 303. Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended— 50 USC 403 note.

(1) by adding at the end of paragraph (1) thereof the following new sentence: "Payment of death-in-service benefits for former spouses is also subject to paragraph (4) of this subsection."; and

(2) by adding after paragraph (3) thereof the following:

"(4) If a former spouse eligible for death-in-service benefits under provisions of this section is or becomes eligible for survivor benefits under section 224, the benefits provided under this section will not be payable and will be superseded by the benefits provided in section 224.".

COMPUTATION OF SURVIVOR BENEFIT FOR FORMER SPOUSES

SEC. 304. (a) Section 224(a)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by striking out "and also by an amount" and all that follows through "by the United States". 50 USC 403 note.

(b) The amendment made by this section shall be effective as of October 1, 1986. Effective date. 50 USC 403 note.

SPECIAL ANNUITY COMPUTATION RULES FOR CERTAIN CIA EMPLOYEES' SERVICE ABROAD

SEC. 305. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following new section:

"SPECIAL ANNUITY COMPUTATION RULES FOR CERTAIN EMPLOYEES' SERVICE ABROAD

50 USC 403r.

"SEC. 18. (a) Notwithstanding any provision of chapter 83 of title 5, United States Code, the annuity under subchapter III of such chapter of an officer or employee of the Central Intelligence Agency who retires on or after October 1, 1989, is not designated under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and has served abroad as an officer or employee of the Agency on or after January 1, 1987, shall be computed as provided in subsection (b).

"(b)(1) The portion of the annuity relating to such service abroad that is actually performed at any time during the officer's or employee's first ten years of total service shall be computed at the rate and using the percent of average pay specified in section 8339(a)(3) of title 5, United States Code, that is normally applicable only to so much of an employee's total service as exceeds ten years.

"(2) The portion of the annuity relating to service abroad as described in subsection (a) but that is actually performed at any time after the officer's or employee's first ten years of total service shall be computed as provided in section 8339(a)(3) of title 5, United States Code; but, in addition, the officer or employee shall be deemed for annuity computation purposes to have actually performed an equivalent period of service abroad during his or her first ten years of total service, and in calculating the portion of the officer's or employee's annuity for his or her first ten years of total service, the computation rate and percent of average pay specified in paragraph (1) shall also be applied to the period of such deemed or equivalent service abroad.

"(3) The portion of the annuity relating to other service by an officer or employee as described in subsection (a) shall be computed as provided in the provisions of section 8339(a) of title 5, United States Code, that would otherwise be applicable to such service.

"(4) For purposes of this subsection, the term 'total service' has the meaning given such term under chapter 83 of title 5, United States Code.

"(c) For purposes of subsections (f) through (m) of section 8339 of title 5, United States Code, an annuity computed under this section shall be deemed to be an annuity computed under subsections (a) and (o) of section 8339 of title 5, United States Code.

"(d) The provisions of subsection (a) of this section shall not apply to an officer or employee of the Central Intelligence Agency who would otherwise be entitled to a greater annuity computed under an otherwise applicable subsection of section 8339 of title 5, United States Code.".

PORTABILITY OF OVERSEAS SERVICE RETIREMENT BENEFIT

50 USC 403r-1.

SEC. 306. The special accrual rates provided by section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees and by section 18 of the Central Intelligence Agency Act of 1949 for computation of the annuity of an individual who has served abroad as an officer or employee of the Central Intelligence Agency shall be used to compute that portion of the annuity of such individual relating to such service abroad whether or not the individual is employed by the Central Intelligence Agency at the time of retirement from Federal service.

DISABILITY RETIREMENT AND DEATH-IN-SERVICE BENEFITS

SEC. 307. (a) The Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403a et seq.), is amended by adding after section 18 the following new section:

"SPECIAL RULES FOR DISABILITY RETIREMENT AND DEATH-IN-SERVICE BENEFITS WITH RESPECT TO CERTAIN EMPLOYEES

"SEC. 19. (a) Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83 of title 5, United States Code, who— 50 USC 403s.

"(i) has five years of civilian service credit toward retirement under such subchapter III of chapter 83, title 5, United States Code;

"(ii) has not been designated under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), as a participant in the Central Intelligence Agency Retirement and Disability System;

"(iii) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation under section 203; and

"(iv) satisfies the requirements for disability retirement under section 8337 of title 5, United States Code—

shall, upon his own application or upon order of the Director, be retired on an annuity computed in accordance with the rules prescribed in such section 231, in lieu of an annuity computed as provided by section 8337 of title 5, United States Code.

"(b) Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83, title 5, United States Code, who—

"(i) has at least eighteen months of civilian service credit toward retirement under such subchapter III of chapter 83, title 5, United States Code;

"(ii) has not been designated under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), as a participant in the Central Intelligence Agency Retirement and Disability System;

"(iii) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation under such section 203; and

"(iv) is survived by a widow or widower, former spouse, and/or a child or children as defined in section 204 and section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, who would otherwise be entitled to an annuity under section 8341 of title 5, United States Code—

such widow or widower, former spouse, and/or child or children of such officer or employee shall be entitled to an annuity computed in accordance with such section 232, in lieu of an annuity computed in accordance with section 8341 of title 5, United States Code.

"(c) Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under chapter 84 of title 5, United States Code, who—

"(i) has completed at least eighteen months of civilian service creditable under section 8411 of title 5, United States Code;

"(ii) has not been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note);

"(iii) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation pursuant to such section; and

"(iv) satisfies the requirements for disability retirement under subchapter V of chapter 84, title 5, United States Code—

shall, on the officer's or employee's own application or an application by the Director, be retired on an annuity computed as if the officer or employee, prior to becoming disabled, had been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), in lieu of the annuity amount that would otherwise be computed under subchapter V of chapter 84 of title 5, United States Code.

"(d) Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under chapter 84 of title 5, United States Code, who—

"(i) has at least eighteen months of civilian service creditable under section 8411 of title 5, United States Code;

"(ii) has not been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note);

"(iii) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation pursuant to such section; and

"(iv) is survived by a widow or widower, former spouse, and/or child or children as defined in section 8441 of title 5, United States Code, who would be entitled to a lump-sum survivor benefit, a survivor annuity and/or if applicable, a supplementary annuity, under subchapter IV of chapter 84, title 5, United States Code—

the survivor benefit or benefits of such widow or widower, former spouse, and/or child or children shall be computed as if the officer or employee, prior to death, had been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), in lieu of the benefit amount or amounts that would otherwise be computed pursuant to subchapter IV of chapter 84, title 5, United States Code.

"(e)(1) The annuities provided under subsections (a) and (b) of this section shall be deemed to be annuities under chapter 83 of title 5, United States Code, for purposes of the other provisions of such chapter and other laws (including the Internal Revenue Code of 1986) relating to such annuities, and shall be payable from the

Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

"(2) The annuities and/or other benefits provided under subsections (c) and (d) of this section shall be deemed to be annuities and/or benefits under chapter 84 of title 5, United States Code, for purposes of the other provisions of such chapter and other laws (including the Internal Revenue Code of 1986) relating to such annuities and/or benefits, but shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.".

(b) The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end of title II the following new section:

"PAYMENTS FROM CIARDS FUND FOR PORTIONS OF CERTAIN CIVIL SERVICE RETIREMENT SYSTEM ANNUITIES

"SEC. 295. Notwithstanding any other provision of law, the amount of the increase in any annuity that results from the application of section 18 of the Central Intelligence Agency Act of 1949, if and when such increase is based on an individual's overseas service as an employee of the Central Intelligence Agency, shall be paid from the fund.".

50 USC 403 note.

TITLE IV—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

REMOTE SENSING PROCUREMENT AUTHORITY

SEC. 401. In the performance of its functions, the Central Intelligence Agency may use its funds to procure commercial remote sensing data by whatever means the Agency deems to be appropriate notwithstanding any provision of law directing the procurement of such data through other Government agencies.

TITLE V—IMPROVEMENTS TO PERSONNEL AUTHORITIES FOR INTELLIGENCE COMPONENTS OF THE DEPARTMENT OF DEFENSE

SPECIAL PAY FOR FOREIGN LANGUAGE PROFICIENCY

SEC. 501. (a)(1) Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1592. Foreign language proficiency: special pay

"(a) The Secretary of Defense may pay special pay under this section to a civilian officer or employee of the Department of Defense who—

"(1) has been certified as being proficient in a foreign language identified by the Secretary of Defense as being a language in which proficiency by civilian personnel of the Department is important for the effective collection, production, or dissemination of foreign intelligence information; and

"(2) is serving in a position, or is subject to assignment to a position, in which proficiency in that language facilitates performance of officially assigned intelligence or intelligence-related duties.

"(b) The annual rate of special pay under subsection (a) shall be determined by the Secretary of Defense.

"(c) Special pay under this section may be paid in addition to any compensation authorized under section 1604(b) of this title for which an officer or employee is eligible.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1592. Foreign language proficiency: special pay.".

Effective date.
50 USC 1592 note.

(b) Section 1592 of title 10, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning on or after the later of—

(1) October 1, 1989, or

(2) the date of the enactment of this Act.

DEFENSE INTELLIGENCE COLLEGE GIFT ACCEPTANCE AUTHORITY

SEC. 502. (a) Chapter 155 of title 10, United States Code, is amended by adding at the end thereof the following new section:

Real property.

"§ 2607. Acceptance of gifts for the Defense Intelligence College

"(a) The Secretary of Defense may accept, hold, administer, and use any gift (including any gift of an interest in real property) made for the purpose of aiding and facilitating the work of the Defense Intelligence College and may pay all necessary expenses in connection with the acceptance of such a gift.

"(b) Money, and proceeds from the sale of property, received as a gift under subsection (a) shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary of Defense to the extent provided in annual appropriation Acts.

"(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

"(d) In this section, the term 'gift' includes a bequest of personal property or a devise of real property.".

(b) The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

"2607. Acceptance of gifts for the Defense Intelligence College.".

PERMANENT AUTHORITY TO TERMINATE EMPLOYMENT OF CIVILIAN INTELLIGENCE OFFICERS AND EMPLOYEES OF MILITARY DEPARTMENTS AND OF THE DEFENSE INTELLIGENCE AGENCY

SEC. 503. (a) Section 1590(e)(1) of title 10, United States Code, is amended by striking out ", during fiscal years 1988 and 1989,".

(b) Section 1604(e)(1) of such title is amended by striking out ", during fiscal years 1988 and 1989,".

DEFENSE ATTACHÉ DEATH GRATUITY

Armed Forces.
Terrorism.

SEC. 504. (a) During fiscal year 1990, the Secretary of Defense may pay a death gratuity identical to that payable under section 1489(b) of title 10, United States Code, to the surviving dependents of a member of the Armed Forces who, while serving on active duty assigned to a Defense attaché office outside the United States, died as a result of hostile or terrorist activities.

(b) The death gratuity referred to in subsection (a) may be paid with respect to an individual who died on or after June 15, 1988.

Reports.

(c) The Secretary of Defense shall submit to Congress no later than March 1, 1990, a report concerning the advisability of permanent law permitting the payment of death gratuities to the survivors of any member of the armed services who, while on active duty assigned to a Defense attaché office outside the United States, dies as a result of hostile or terrorist activities.

SPECIAL ANNUITY COMPUTATION RULES FOR PERIODS OF SERVICE ABROAD FOR CERTAIN DIA AND NSA EMPLOYEES

SEC. 505. (a) Section 1605(a) of title 10, United States Code, is amended—

(1) by striking out "who are subject to chapter 84 of title 5," in the last sentence; and

(2) by striking out the period at the end and inserting in lieu thereof "and in section 18 of the Central Intelligence Agency Act of 1949.".

(b) Section 9(b) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in paragraph (1)(B), by striking "(including special" and all that follows through "note)); and" and inserting in lieu thereof a semicolon;

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(3) special retirement accrual in the same manner provided in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) and in section 18 of the Central Intelligence Agency Act of 1949.".

REQUIREMENTS FOR CITIZENSHIP FOR STAFF OF UNITED STATES ARMY RUSSIAN INSTITUTE

8 USC 1430 note.

SEC. 506. (a) For purposes of section 319(c) of the Immigration and Nationality Act (8 U.S.C. 1430(c)), the United States Army Russian Institute, located in Garmisch, Federal Republic of Germany, shall be considered to be an organization described in clause (1) of this section.

Effective date.

(b) Subsection (a) shall apply with respect to periods of employment before, on, or after the date of the enactment of this Act.

Naturalized persons.

(c) No more than two persons per year may be naturalized based on the provisions of subsection (a).

Reports.

(d) Each instance of naturalization based on the provisions of subsection (a) shall be reported to the Committees on the Judiciary of the Senate and House of Representatives and to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives prior to such naturalization.

DEFENSE INTELLIGENCE AGENCY ACQUISITION OF CRITICAL SKILLS

SEC. 507. (a)(1) Chapter 83 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1608. Financial assistance to certain employees in acquisition of critical skills

Education.

"(a) The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees of the Defense Intelligence Agency that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

"(b) Any payments made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.".

(2) The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

"1608. Financial assistance to certain employees in acquisition of critical skills.".

Effective date. 10 USC 1608 note.

(b) Section 1608 of title 10, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

TITLE VI—FBI NEW YORK FIELD DIVISION DEMONSTRATION PROJECT

FBI NEW YORK FIELD DIVISION DEMONSTRATION PROJECT

102 Stat. 1911.

SEC. 601. (a) Section 601(a)(2) of the Intelligence Authorization Act, Fiscal Year 1989 is amended by striking out "who are subject by policy and practice to directed geographical transfer or reassignment".

Effective date.

(b) The amendment made by subsection (a) shall take effect on October 1, 1989.

President of U.S.

(c) In preparing for submission to the Congress the Budget of the United States for Fiscal Year 1991, the President shall take into account and, to the greatest extent possible, incorporate into such budget the recommendations of the National Advisory Commission on Law Enforcement as established by section 6160 of the Anti-Drug Abuse Act of 1988.

PERSONNEL CEILING ON UNITED STATES AND SOVIET MISSIONS

SEC. 602. It is the sense of the Congress that the ceiling on permanent positions at the United States Mission to the Soviet Union and the Soviet Mission to the United States should not be increased unless—

(a) the President determines that such increase is essential to the effective functioning of the United States Mission to the Soviet Union; and

(b) the FBI is provided sufficient additional resources to fulfill its responsibilities resulting from the increased number of permanent positions at the Soviet Mission to the United States.

FBI INVESTIGATIONS OF ESPIONAGE BY PERSONS EMPLOYED BY OR ASSIGNED TO UNITED STATES DIPLOMATIC MISSIONS ABROAD

28 USC 533 note.

SEC. 603. Subject to the authority of the Attorney General, the FBI shall supervise the conduct of all investigations of violations of the espionage laws of the United States by persons employed by or assigned to United States diplomatic missions abroad. All depart-

Reports.

ments and agencies shall report immediately to the FBI any information concerning such a violation. All departments and agencies shall provide appropriate assistance to the FBI in the conduct of such investigations. Nothing in this provision shall be construed as establishing a defense to any criminal, civil, or administrative action.

TITLE VII—GENERAL PROVISIONS

INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 701. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 702. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

PRESIDENTIAL REPORT ON COORDINATION OF DRUG INTELLIGENCE ACTIVITIES

SEC. 703. Not later than April 1, 1990, the President shall submit to Congress a report describing how intelligence activities relating to narcotics trafficking can be integrated, including coordinating the collection and analysis of intelligence information, ensuring the dissemination of relevant intelligence information to officials with responsibility for narcotics policy and to agencies of the United States Government responsible for interdiction, eradication, law enforcement, and other counternarcotics activities, and coordinating and controlling all counternarcotics intelligence activities.

TITLE VIII—INSPECTOR GENERAL FOR CENTRAL INTELLIGENCE AGENCY

INSPECTOR GENERAL FOR CENTRAL INTELLIGENCE AGENCY

SEC. 801. Section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended to read as follows:

"SEC. 17. INSPECTOR GENERAL FOR THE AGENCY.

"(a) PURPOSE; ESTABLISHMENT.—In order to—

"(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently inspections, investigations, and audits relating to programs and operations of the Agency;

"(2) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and detect fraud and abuse in such programs and operations;

"(3) provide a means for keeping the Director fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions; and

"(4) in the manner prescribed by this section, ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (hereafter in this section referred to collectively as the 'intelligence committees') are kept similarly informed of significant problems and deficiencies as well as the necessity for and the progress of corrective actions,

there is hereby established in the Agency an Office of Inspector General (hereafter in this section referred to as the 'Office').

President of U.S.

"(b) APPOINTMENT; SUPERVISION; REMOVAL.—(1) There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate. This appointment shall be made without regard to political affiliation and shall be solely on the basis of integrity, compliance with the security standards of the Agency, and prior experience in the field of foreign intelligence. Such appointment shall also be made on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, or public administration.

Reports.

"(2) The Inspector General shall report directly to and be under the general supervision of the Director.

"(3) The Director may prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

Classified information.

"(4) If the Director exercises any power under paragraph (3), he shall submit an appropriately classified statement of the reasons for the exercise of such power within seven days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that he considers appropriate.

Reports.

"(5) In accordance with section 535 of title 28, United States Code, the Director shall report to the Attorney General any information, allegation, or complaint received from the Inspector General, relating to violations of Federal criminal law involving any officer or employee of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Inspector General.

President of U.S.

"(6) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the intelligence committees the reasons for any such removal.

"(c) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General appointed under this section—

"(1) to provide policy direction for, and to conduct, supervise, and coordinate independently, the inspections, investigations, and audits relating to the programs and operations of the Agency to ensure they are conducted efficiently and in accordance with applicable law and regulations;

"(2) to keep the Director fully and currently informed concerning violations of law and regulations, fraud and other serious problems, abuses and deficiencies that may occur in such programs and operations, and to report the progress made in implementing corrective action;

"(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Office, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

"(4) in the execution of his responsibilities, to comply with generally accepted government auditing standards.

Classified information.

"(d) SEMIANNUAL REPORTS; IMMEDIATE REPORTS OF SERIOUS OR FLAGRANT PROBLEMS; REPORTS OF FUNCTIONAL PROBLEMS.—(1) The Inspector General shall, not later than June 30 and December 31 of each year, prepare and submit to the Director of Central Intelligence a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month period. Within thirty days, the Director shall transmit such reports to the intelligence committees with any comments he may deem appropriate. Such reports shall, at a minimum, include a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period and—

"(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Agency identified by the Office during the reporting period;

"(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified in subparagraph (A);

"(C) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

"(D) a certification that the Inspector General has had full and direct access to all information relevant to the performance of his functions;

"(E) a description of all cases occurring during the reporting period where the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to his lack of authority to subpoena such information; and

"(F) such recommendations as the Inspector General may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Agency, and to detect and eliminate fraud and abuse in such programs and operations.

"(2) The Inspector General shall report immediately to the Director whenever he becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations. The Director shall transmit such report to the intelligence committees within seven calendar days, together with any comments he considers appropriate.

"(3) In the event that—

"(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the Inspector General's duties or responsibilities;

"(B) an investigation, inspection, or audit carried out by the Inspector General should focus upon the Director or Acting Director; or

"(C) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, the Inspector General shall immediately report such matter to the intelligence committees.

"(4) Pursuant to Title V of the National Security Act of 1947, the Director shall submit to the intelligence committees any report of an inspection, investigation, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

"(e) AUTHORITIES OF THE INSPECTOR GENERAL.—(1) The Inspector General shall have direct and prompt access to the Director when necessary for any purpose pertaining to the performance of his duties.

Contracts.

Records.

"(2) The Inspector General shall have access to any employee or any employee of a contractor of the Agency whose testimony is needed for the performance of his duties. In addition, he shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section. Failure on the part of any employee or contractor to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, to include loss of employment or the termination of an existing contractual relationship.

Law enforcement and crime.
Fraud.
Safety.

"(3) The Inspector General is authorized to receive and investigate complaints or information from an employee of the Agency concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received—

"(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation; and

"(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee of the Agency in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

"(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of his duties, which oath affirmation, or affidavit when administered or taken by or before an employee of the Office designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

"(5) The Inspector General shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

"(6) Subject to applicable law and the policies of the Director, the Inspector General shall select, appoint and employ such officers and employees as may be necessary to carry out his functions. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable him to carry out his duties effectively. In this regard, it is the sense of Congress that the Inspector General should create within his organization a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of his duties.

"(7) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out his duties and responsibilities from any Federal agency. Upon request of the Inspector General for such information or assistance, the head of the Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency concerned, furnish to the Inspector General, or to an authorized designee, such information or assistance.

"(f) SEPARATE BUDGET ACCOUNT.—Beginning with fiscal year 1991, and in accordance with procedures to be issued by the Director of Central Intelligence in consultation with the intelligence committees, the Director of Central Intelligence shall include in the National Foreign Intelligence Program budget a separate account for the Office of Inspector General established pursuant to this section.

Contracts.
Records.

"(g) TRANSFER.—There shall be transferred to the Office the office of the Agency referred to as the 'Office of Inspector General.' The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to such 'Office of Inspector General' are hereby transferred to the Office established pursuant to this section.".

Approved November 30, 1989.

LEGISLATIVE HISTORY—H.R. 2748 (S. 1324):

HOUSE REPORTS: No. 101-215, Pt. 1 (Permanent Select Comm. on Intelligence) and Pt. 2 (Comm. on Armed Services); and No. 101-367 (Comm. of Conference).

SENATE REPORTS: No. 101-78 and No. 101-174 (Select Comm. on Intelligence) and No. 101-151 (Comm. on Armed Services), all accompanying S. 1324.

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 12, considered and passed House.
Nov. 7, considered and passed Senate, amended.
Nov. 17, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Nov. 30, Presidential statement.

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PUBLIC LAW 101-194—NOV. 30, 1989

ETHICS REFORM ACT OF 1989

Public Law 101-194
101st Congress

An Act

Nov. 30, 1989
[H.R. 3660]

To amend the Rules of the House of Representatives and the Ethics in Government Act of 1978 to provide for Government-wide ethics reform, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ethics Reform Act of 1989.
5 USC app. 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics Reform Act of 1989".

TITLE I—POST EMPLOYMENT RESTRICTIONS ON THE EXECUTIVE AND LEGISLATIVE BRANCHES

SEC. 101. RESTRICTIONS ON POSTEMPLOYMENT ACTIVITIES.

(a) RESTRICTIONS.—Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

"(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.—

District of Columbia.

"(1) PERMANENT RESTRICTIONS ON REPRESENTATION ON PARTICULAR MATTERS.—Any person who is an officer or employee of the executive branch of the United States Government (including any independent agency of the United States and any special Government employee), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States Government or the District of Columbia, as the case may be, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, as the case may be, on behalf of any other person (except the United States) in connection with a particular matter—

"(A) in which the United States is a party or has a direct and substantial interest,

"(B) in which the person participated personally and substantially as such officer or employee, and

"(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 216 of this title.

"(2) TWO-YEAR RESTRICTIONS CONCERNING PARTICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY.—Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States Government, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States), in connection with a particular matter—

"(A) in which the United States is a party or has a direct and substantial interest,

"(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States Government or the District of Columbia, and

"(C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 216 of this title.

"(b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.—

"(1) IN GENERAL.—Any person who is a former officer or employee subject to the restrictions contained in subsection (a)(1), and any person described in subsection (e)(7), who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, and which is so designated by the appropriate department or agency, shall not, on the basis of that information, which the person knew or should have known was so designated, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for 1 year after his or her service or employment with the United States Government terminates. Any person who violates this subsection shall be punished as provided in section 216 of this title.

"(2) DEFINITION.—For purposes of this paragraph—

"(A) the term 'trade negotiation' means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

"(B) the term 'treaty' means an international agreement made by the President that requires the advice and consent of the Senate.

"(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

"(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee of the executive branch (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

"(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

"(i) employed at a rate of pay fixed according to subchapter II of chapter 53 of title 5, or a comparable or greater rate of pay under other authority,

"(ii) employed in a position which is not referred to in clause (i) and for which the basic rate of pay is equal to or greater than the basic rate of pay payable for GS-17 of the General Schedule,

"(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3, or

Uniformed services.

"(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-7 or above.

"(B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

"(C) Subparagraph (A)(ii) includes persons employed in the Senior Executive Service at the basic rate of pay specified in that subparagraph.

"(D) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that—

"(i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and

"(ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

"(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

"(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

"(A) serves in the position of Vice President of the United States,

"(B) is employed in a position paid at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

"(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,

and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.

"(2) ENTITIES TO WHICH RESTRICTIONS APPLY.—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

"(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and

"(B) any other person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.

"(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFICERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.—

"(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS.—(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.

"(C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.

"(2) PERSONAL STAFF.—(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

"(i) the Senator or Member of the House of Representatives for whom that person was an employee; and

"(ii) any employee of that Senator or Member of the House of Representatives.

"(3) COMMITTEE STAFF.—Any person who is an employee of a committee of Congress and who, within 1 year after the termination of that person's employment on such committee, knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or who was a Member of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

"(4) LEADERSHIP STAFF.—(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

"(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and

"(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.

"(5) OTHER LEGISLATIVE OFFICES.—(A) Any person who is an employee of any other legislative office of the Congress and who, within 1 year after the termination of that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 216 of this title.

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

"(6) LIMITATION ON RESTRICTIONS.—The restrictions contained in paragraphs (2), (3), (4), and (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid for such service at a basic rate of pay equal to or greater than the basic rate of pay payable for GS-17 of the General Schedule under section 5332 of title 5.

"(7) DEFINITIONS.—As used in this subsection—

"(A) the term 'committee of Congress' includes standing committees, joint committees, and select committees;

"(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

"(C) the term 'employee of the House of Representatives' means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

"(D) the term 'employee of the Senate' means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

"(E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;

"(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

"(G) the term 'employee of any other legislative office of the Congress' means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the Copyright Royalty Tribunal, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), or (4) of this subsection;

"(H) the term 'employee on the leadership staff of the House of Representatives' means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;

"(I) the term 'employee on the leadership staff of the Senate' means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);

"(J) the term 'Member of Congress' means a Senator or a Member of the House of Representatives;

"(K) the term 'Member of the House of Representatives' means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

"(L) the term 'Member of the leadership of the House of Representatives' means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989);

"(M) the term 'Member of the leadership of the Senate' means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

"(f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.—

"(1) RESTRICTIONS.—Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in subsection (c), (d), or (e), as the case may be—

"(A) represents the interests of a foreign entity before any officer or employee of any department or agency of the Government of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or

"(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the Government of the United States, in carrying out his or her official duties,

shall be punished as provided in section 216 of this title.

"(2) DEFINITION.—For purposes of this subsection, the term 'foreign entity' means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.".

"(g) SPECIAL RULES FOR DETAILEES.—For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

"(h) DESIGNATIONS OF SEPARATE STATUTORY AGENCIES AND BUREAUS.—

"(1) DESIGNATIONS.—For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

"(2) INAPPLICABILITY OF DESIGNATIONS.—No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A) (i) or (iii).

"(i) DEFINITIONS.—For purposes of this section—

"(1) the term 'intent to influence' means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States, including Members of Congress;

"(2) the term 'participated' means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

"(3) the term 'particular matter' includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

"(j) EXCEPTIONS.—

"(1) OFFICIAL GOVERNMENT DUTIES.—The restrictions contained in subsections (a), (c), (d), and (e) shall not apply to acts done in carrying out official duties as an officer or employee of the United States Government or as an elected official of a State or local government.

"(2) STATE AND LOCAL GOVERNMENTS AND INSTITUTIONS, HOSPITALS, AND ORGANIZATIONS.—The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of—

"(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

"(B) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

"(3) INTERNATIONAL ORGANIZATIONS.—The restrictions contained in subsections (c), (d), and (e) shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization of which the United States is a member.

"(4) PERSONAL MATTERS AND SPECIAL KNOWLEDGE.—The restrictions contained in subsections (c), (d), and (e) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibitions of those subsections prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

Federal Register, publication.

"(5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL INFORMATION.—The restrictions contained in subsections (a), (c), (d), and (e) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

Vice President of U.S.

"(6) EXCEPTION FOR TESTIMONY.—Nothing in this section shall prevent a former Member of Congress or officer or employee of the executive or legislative branch or an independent agency (including the Vice President and any special Government employee) from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence, a former officer or employee subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter.".

(b) CONFORMING AMENDMENT.—The item relating to section 207 in the table of sections at the beginning of chapter 11 of title 18, United States Code, is amended to read as follows:

"207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches."

18 USC 207 note.

SEC. 102. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by section 101 take effect on January 1, 1991.

(b) EFFECT ON EMPLOYMENT.—(1) The amendments made by section 101 apply only to persons whose service as a Member of Congress or an officer or employee to which such amendments apply terminates on or after the effective date of such amendments.

(2) With respect to service as an officer or employee which terminates before the effective date set forth in subsection (a), section 207 of title 18, United States Code, as in effect at the time of the termination of such service, shall continue to apply, on and after such effective date, with respect to such service.

TITLE II—FINANCIAL DISCLOSURE OF FEDERAL PERSONNEL

SEC. 201. REPEAL OF TITLES II AND III OF THE ETHICS IN GOVERNMENT ACT OF 1978.

Titles II and III of the Ethics in Government Act of 1978 (5 U.S.C. App.; 28 U.S.C. App.) are repealed.

SEC. 202. FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL.

Title I of the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.) is amended to read as follows:

"TITLE I—FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL

"PERSONS REQUIRED TO FILE

5 USC app. 101.

"SEC. 101. (a) Within thirty days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) within thirty days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

"(b)(1) Within five days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O-6 or below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which occurs five days before the date of such hearing. Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

"(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

"(c) Within thirty days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President, Vice President, or Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President, Vice President, or Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

"(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

"(e) Any individual who occupies a position described in subsection (f) shall, on or before the later of May 15 or the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f).

"(f) The officers and employees referred to in subsections (a), (d), and (e) are—

"(1) the President;

"(2) the Vice President;

"(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified at GS-16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS-16; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

"(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

"(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

"(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16;

"(7) the Director of the Office of Government Ethics and each designated agency ethics official;

"(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President;

"(9) a Member of Congress as defined under section 109(12);

"(10) an officer or employee of the Congress as defined under section 109(13);

"(11) a judicial officer as defined under section 109(10); and

"(12) a judicial employee as defined under section 109(8).

"(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed ninety days.

"(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), the congressional ethics committees, or the Judicial Conference of the United States, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if such individual performs the duties of his office or position for more than sixty days in a calendar year—

"(1) the report required by subsections (a) and (b) shall be filed within fifteen days of the sixtieth day, and

"(2) the report required by subsection (e) shall be filed as provided in such subsection.

"(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than one hundred and thirty days in a calendar year, but only if the supervising ethics office determines that—

"(1) such individual is not a full-time employee of the Government,

"(2) such individual is able to provide services specially needed by the Government,

"(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

"(4) public financial disclosure by such individual is not necessary in the circumstances.

"CONTENTS OF REPORTS

5 USC app. 102.

"SEC. 102. (a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

Classified information.

"(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $200 or more in value and, effective January 1, 1991, the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and such individuals shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

"(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

"(i) not more than $1,000,

"(ii) greater than $1,000 but not more than $2,500,

"(iii) greater than $2,500 but not more than $5,000,

"(iv) greater than $5,000 but not more than $15,000,

"(v) greater than $15,000 but not more than $50,000,

"(vi) greater than $50,000 but not more than $100,000,

"(vii) greater than $100,000 but not more than $1,000,000, or "(viii) greater than $1,000,000.

Gifts and property.

"(2)(A) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $75 or less need not be aggregated for purposes of this subparagraph.

"(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $75 or less need not be aggregated for purposes of this subparagraph.

"(C) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating $250 or more in value and received during the preceding calendar year.

"(D) In an unusual case, a gift need not be aggregated under subparagraph (A) or (B) if a publicly available request for a waiver is granted.

Real property.

"(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, parent, brother, sister, or child or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

Real property.

"(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed $10,000 at any time during the preceding calendar year, excluding—

"(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

"(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

"(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

Real property.

"(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

Securities.

"(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

"(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

"(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

"(i) the identity of each source of such compensation; and

"(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

Classified information.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

"(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

"(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

"(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

"(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and

"(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

"(2)(A) In lieu of filling out one or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

"(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

"(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

"(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), and (5) of subsection (a) are as follows:

"(A) not more than $15,000;
"(B) greater than $15,000 but not more than $50,000;
"(C) greater than $50,000 but not more than $100,000;
"(D) greater than $100,000 but not more than $250,000;
"(E) greater than $250,000 but not more than $500,000;
"(F) greater than $500,000 but not more than $1,000,000; and
"(G) greater than $1,000,000.

Real property.

"(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

Securities.

"(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

"(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

"(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

"(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

"(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

"(E) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

"(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

"(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

"(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

"(A) any qualified blind trust (as defined in paragraph (3));

"(B) a trust—

"(i) which was not created directly by such individual, his spouse, or any dependent child, and

"(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

"(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

"(3) For purposes of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

"(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

"(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party; and

"(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in, any joint venture or other investment with, any interested party; and

"(III) is not a relative of any interested party.

"(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

"(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

"(II) is not or has not been a partner of any interested party and is not a partner of, or involved in any joint venture or other investment with any interested party; and

"(III) is not a relative of any interested party.

"(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

"(C) The trust instrument which establishes the trust provides that—

"(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

"(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

"(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

"(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

"(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

"(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

"(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

"(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

"(E) For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

"(F) Any trust qualified by a supervising ethics office before the effective date of this section shall continue to be governed by the law and regulations in effect immediately before such effective date.

"(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

"(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

"(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

"(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

"(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraphs (3)(C)(iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

"(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

"(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to the effective date of this Act which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

"(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

"(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

"(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

"(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

"(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

"(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

"(i) notify his supervising ethics office of such dissolution, and

"(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

"(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

"(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

"(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

"(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

"(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

"(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

"(7) Any trust may be considered to be a qualified blind trust if—

"(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

"(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

"(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

"(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

"(A)(i) the fund is publicly traded; or

"(ii) the assets of the fund are widely diversified; and

"(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

"(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

"(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

"FILING OF REPORTS

5 USC app. 103.

"SEC. 103. (a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 101(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

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"(b) The President, the Vice President, and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code, shall file reports required under this title with the Director of the Office of Government Ethics.

"(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2)(A) or (B), 106(a)(1)(A) or (B), or 107(a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress other than those referred to in subsection (f) shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

Public information.

"(d) Reports required to be filed under this title by the Director shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

"(e) Each individual identified in section 101(c) shall file the reports required by this title with the Federal Elections Commission.

Uniformed services.

"(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

"(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

"(h)(1) The reports required under this title shall be filed by a reporting individual with—

"(A)(i) the appropriate congressional ethics committee with regard to a Member of Congress, officer or employee of the Congress described under paragraphs (9) and (10) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position); and

"(ii) in the case of an officer or employee of the Congress as described under section 101(f)(10) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989—

"(I) the congressional ethics committee designated in the statute establishing such agency or commission; or

"(II) if such statute does not designate such committee, the Senate Select Committee on Ethics for agencies and commissions established in even numbered calendar years, and the Committee on Standards of Official Conduct of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

"(B) the Judicial Conference of the United States with regard to a judicial officer or employee described under paragraphs (11) and (12) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

"(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

"FAILURE TO FILE OR FILING FALSE REPORTS

"SEC. 104. (a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000. 5 USC app. 104.

"(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Chairman of the Judicial Conference of the United States, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

"(c) The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a congressional ethics committee, and the Judicial Conference of the United States, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

"(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

"(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

"(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period,

shall pay a filing fee of $200 to the miscellaneous receipts of the General Treasury.

"(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

"CUSTODY OF AND PUBLIC ACCESS TO REPORTS

"SEC. 105. (a) Each agency and each supervisory ethics office shall make each report filed with it under this title available to the public in accordance with the provisions of subsection (b) of this section, except that this section does not require public availability of a report filed by— 5 USC app. 105.

Defense and national security.

Classified information.

"(1) any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States. In addition, such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds that such filing is necessary in the national interest; or

"(2) an independent counsel or person appointed by independent counsel under chapter 40 of title 28, United States Code, whose identity has not otherwise been disclosed.

"(b)(1) Each agency and each supervising ethics office shall, within thirty days after any report is received by such agency or office under this title, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. The agency or office may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

"(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

"(A) that person's name, occupation and address;

"(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

"(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

"(c)(1) It shall be unlawful for any person to obtain or use a report—

"(A) for any unlawful purpose;

"(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

"(C) for determining or establishing the credit rating of any individual; or

"(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

"(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

"(d) Any report filed with or transmitted to an agency or supervising ethics office pursuant to this title shall be retained by such agency or office, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

"REVIEW OF REPORTS

"SEC. 106. (a)(1) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within sixty days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within sixty days after the date of transmittal. 5 USC app. 106.

"(2) Each congressional ethics committee and the Judicial Conference of the United States shall make provisions to ensure that each report filed under this title is reviewed within sixty days after the date of such filing.

"(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official, or a person designated by the congressional ethics committee, or the Chairman of the Judicial Conference of the United States, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

"(2) If the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official or a person designated by the congressional ethics committee, or the Chairman of the Judicial Conference of the United States, after reviewing any report under subsection (a)—

"(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

"(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

"(3) If the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official, a congressional ethics committee, or the Judicial Conference of the United States, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

"(A) divestiture,

"(B) restitution,

"(C) the establishment of a blind trust,

"(D) request for an exemption under section 208(b) of title 18, United States Code, or

"(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

"(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the foreign service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

"(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the foreign service or the uniformed services, the Secretary concerned shall take appropriate action.

"(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee the matter shall be referred to the head of the appropriate agency, the congressional ethics committee, or the Judicial Conference of the United States, for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

"(7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

"CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS

5 USC app. 107.

"SEC. 107. (a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

"(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

"(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

"(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

"(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

"AUTHORITY OF COMPTROLLER GENERAL

"SEC. 108. (a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities. 5 USC app. 108.

"(b) No later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

"DEFINITIONS

"SEC. 109. For the purposes of this title, the term— 5 USC app. 109.

"(1) 'congressional ethics committees' means the Senate Select Committee on Ethics and the Committee on Standards of Official Conduct of the House of Representatives;

"(2) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

"(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

"(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986;

"(3) 'designated agency ethics official' means an officer or employee who is designated to administer the provisions of this title within an agency;

"(4) 'executive branch' includes each Executive agency (as defined in section 105 of title 5, United States Code) and any other entity or administrative unit in the executive branch;

"(5) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

"(A) bequest and other forms of inheritance;

"(B) suitable mementos of a function honoring the reporting individual;

"(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government;

"(D) food and beverages consumed at banquets, receptions, or similar events; or

"(E) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

"(6) 'honoraria' has the meaning given such term in section 505 of this Act;

"(7) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

"(8) 'judicial employee' means any employee of the judicial branch of the Government, of the Tax Court, of the Court of Veterans Appeals, or of the United States Court of Military Appeals, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5, United States Code;

"(9) 'Judicial Conference' means the Judicial Conference of the United States;

"(10) 'judicial officer' means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands, Court of Claims, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, United States Court of Military Appeals, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

"(11) 'legislative branch' includes—

"(A) the Architect of the Capitol;

"(B) the Botanic Gardens;

"(C) the Congressional Budget Office;

"(D) the General Accounting Office;

"(E) the Government Printing Office;

"(F) the Library of Congress;

"(G) the United States Capitol Police;

"(H) the Office of Technology Assessment; and

"(I) any other agency, entity, office, or commission established in the legislative branch;

"(12) 'Member of Congress' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

"(13) 'officer or employee of the Congress' means—

"(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives;

"(B)(i) each officer or employee of the legislative branch who is compensated for 60 consecutive days at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule; and

"(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule;

"(14) 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

"(15) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

"(A) provided by the United States Government;

"(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

"(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

"(16) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

"(17) 'Secretary concerned' has the meaning set forth in section 101(8) of title 10, United States Code, and, in addition, means—

"(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

"(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service;

"(18) 'supervising ethics office' means—

"(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers or employees of the legislative branch required to file financial disclosure reports with such committee pursuant to section 103(h) of this title;

"(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with such committee pursuant to section 103(h) of this title;

"(C) the Judicial Conference of the United States for judicial officers and judicial employees; and

"(D) the Office of Government Ethics for all executive branch employees; and

"(19) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

"NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS

5 USC app. 110.

"SEC. 110. (a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference of the United States, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference of the United States, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than three months after the date of the agreement, if no date for action is so specified.

"(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

"ADMINISTRATION OF PROVISIONS

5 USC app. 111.

"SEC. 111. The provisions of this title shall be administered by—

"(1) the Director of the Office of Government Ethics, the designated agency ethics official, or the Secretary concerned, as appropriate, with regard to officers and employees described in paragraphs (1) through (8) of section 101(f);

"(2) the Senate Select Committee on Ethics and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (9) and (10) of section 101(f); and

"(3) the Judicial Conference of the United States and clerk of the applicable court, as appropriate, in the case of an officer or employee described in paragraphs (11) and (12) of section 101(f).

"EFFECTIVE DATE

5 USC app. 112.

"SEC. 112. The provisions made by this title shall take effect on January 1, 1990, and shall be applicable to reports filed under this title after January 1, 1991.".

SEC. 203. PRESIDENT'S COMMISSION ON THE FEDERAL APPOINTMENT PROCESS.

(a) ESTABLISHMENT.—There shall be established an advisory commission to study the best means of simplifying the Presidential appointment process, in particular by reducing the number and complexity of forms to be completed by nominees. The Commission shall be known as the President's Commission on the Federal Appointment Process.

(b) MEMBERSHIP.—The Commission shall be composed of 14 members from among officers and employees of the three branches of the Federal Government. Eight members shall be appointed by the President, two members shall be appointed by the majority leader of the Senate, two members shall be appointed by the minority leader of the Senate, one member shall be appointed by the Speaker of the House of Representatives, and one member shall be appointed by the minority leader of the House of Representatives. Any vacancy on the Commission shall be filled in the same manner as the initial appointment.

(c) REPORT.—The Commission shall present its report to the President no later than ninety days after its first meeting. The Commission shall cease to exist upon submission of its report.

TITLE III—GIFTS AND TRAVEL

SEC. 301. GIFTS TO SUPERIORS.

Section 7351 of title 5, United States Code, is amended by—

(1) adding "(a)" before "An employee may not"; and

(2) striking the final sentence and inserting the following:

"(b) An employee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.

Regulations.

"(c) The Office of Government Ethics is authorized to issue regulations implementing this section, including regulations exempting voluntary gifts or contributions that are given or received for special occasions such as marriage or retirement or under other similar circumstances.".

SEC. 302. TRAVEL ACCEPTANCE AUTHORITY.

(a) IN GENERAL.—Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end thereof the following:

"§1352. Acceptance of travel and related expenses from non-Federal sources

Regulations.

"(a) Notwithstanding any other provision of law, the Administrator of General Services, in consultation with the Director of the Office of Government Ethics, shall prescribe by regulation the conditions under which an agency or employee in the executive branch may accept payment from non-Federal sources for travel, subsistence, and related expenses with respect to attendance of the employee (or the spouse of such employee) at any meeting or similar function relating to the official duties of the employee. Any cash payment so accepted shall be credited to the appropriation applicable to such expenses. In the case of a payment in kind so accepted, a pro rata reduction shall be made in any entitlement of the employee to payment from the Government for such expenses.

"(b) Except as provided in this section or section 4111 of title 5, an agency or employee may not accept payment for expenses referred to in subsection (a). An employee who accepts any payment in violation of the preceding sentence—

"(1) may be required, in addition to any penalty provided by law, to repay, for deposit in the general fund of the Treasury, an amount equal to the amount of the payment so accepted; and

"(2) in the case of a repayment under paragraph (1) shall not be entitled to any payment from the Government for such expenses.

"(c) As used in this section—

"(1) the term 'executive branch' means any executive agency (as such term is defined in section 105 of title 5); and

"(2) the term 'employee in the executive branch' means—

"(A) an appointed officer or employee in the executive branch; and

"(B) an expert or consultant in the executive branch, under section 3109 of title 5; and

"(3) the term 'payment' means a payment or reimbursement, in cash or in kind.

"(d)(1) The head of each agency of the executive branch shall, in the manner provided in paragraph (2), submit to the Director of the Office of Government Ethics reports of payments of more than $250 accepted under this section with respect to employees of the agency. The Director shall make such reports available for public inspection and copying.

Public information.

"(2) The reports required by paragraph (1) shall, with respect to each payment—

"(A) specify the amount and method of payment, the name of the person making the payment, the name of the employee, the nature of the meeting or similar function, the time and place of travel, the nature of the expenses, and such other information as the Administrator of General Services may prescribe by regulation under subsection (a);

"(B) be submitted not later than May 31 of each year with respect to payments in the preceding period beginning on October 1 and ending on March 31; and

"(C) be submitted not later than November 30 of each year with respect to payments in the preceding period beginning on April 1 and ending on September 30.".

(b) Clerical Amendment.—The table of sections for subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new item:

"1352. Acceptance of travel and related expenses from non-Federal sources.".

SEC. 303. GIFTS TO FEDERAL EMPLOYEES.

(a) In General.—Subchapter V of chapter 73 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 7353. Gifts to Federal employees

"(a) Except as permitted by subsection (b), no Member of Congress or officer or employee of the executive, legislative, or judicial branches shall solicit or accept anything of value from a person—

"(1) seeking official action from, doing business with, or (in the case of executive branch officers and employees) conducting activities regulated by the individual's employing agency; or

"(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

"(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing for such reasonable exceptions as may be appropriate.

Regulations.

"(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules or regulations established by such individual's supervising ethics office pursuant to paragraph (1).

"(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of any official act.

"(3) Nothing in this section precludes a Member, officer, or employee from accepting gifts on behalf of the United States Government or any of its agencies in accordance with statutory authority.

"(c) An employee who violates this section shall be subject to appropriate disciplinary and other remedial action in accordance with any applicable laws, Executive orders, and rules or regulations.

"(d) For purposes of this section—

"(1) the term 'supervising ethics office' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives or the House of Representatives as a whole, for Members, officers, and employees of the House of Representatives;

"(B) the Select Committee on Ethics of the Senate, or the Senate as a whole, for Senators, officers and employees of the Senate;

"(C) the Judicial Conference of the United States for judges and judicial branch officers and employees;

"(D) the Office of Government Ethics for all executive branch officers and employees; and

"(E) the ethics committee with which the officer or employee is required to file financial disclosure forms, for all legislative branch officers and employees other than those specified in subparagraphs (A) and (B), except that such authority may be delegated; and

"(2) the term 'officer or employee' means an individual holding an appointive or elective position in the executive, legislative, or judicial branch of Government other than a Member of Congress.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents for chapter 73 of title 5, United States Code, is amended by inserting after the item relating to section 7352 the following new item:

"7353. Gifts to Federal employees.".

TITLE IV—AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE

SEC. 401. AMENDMENT TO SECTION 202 OF TITLE 18, UNITED STATES CODE.

Section 202 of title 18, United States Code, is amended by adding at the end thereof the following new subsections:

"(c) Except as otherwise provided in such sections, the terms 'officer' and 'employee' in sections 203, 205, 207, 208, and 209 of this title, mean those individuals defined in sections 2104 and 2105 of title 5 The terms 'officer' and 'employee' shall not include the President, the Vice President, a Member of Congress, or a Federal judge.

"(d) The term 'Member of Congress' in sections 204 and 207 shall include—

"(1) a United States Senator; and

"(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

"(e) As used in this chapter, the term—

"(1) 'executive branch' means any executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;

"(2) 'judicial branch' means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Military Appeals, the United States Claims Court, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and

"(3) 'legislative branch' means—

"(A) a Member of Congress, or any officer or employee of the United States Senate or United States House of Representatives; and

"(B) an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.".

SEC. 402. AMENDMENTS TO SECTION 203 OF TITLE 18, UNITED STATES CODE.

Section 203 of title 18, United States Code, is amended by—

(1) striking "services" the first place it appears in subsection (a)(1) and inserting "representational services, as agent or attorney or otherwise,";

(2) inserting "court," after "department, agency," in subsection (a)(1);

(3) striking "shall be fined under this title or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States" in subsection (a) and inserting "shall be subject to the penalties set forth in section 216 of this title";

(4) inserting "representational" before "services" in subsection (a)(2);

(5) inserting "Member Elect," after "Member," in subsection (a)(2);

(6) inserting "Delegate Elect," after "Delegate," in subsection (a)(2);

(7) striking "including the District of Columbia," in subsection (a)(1)(B);

(8) in subsection (b)—

(A) by redesignating such subsection as subsection (c); and

(B) by striking "subsection (a)" and inserting "subsections (a) and (b)";

(9) by inserting after subsection (a) the following:

"(b) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

District of Columbia.

"(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission; or

"(2) knowingly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

shall be subject to the penalties set forth in section 216 of this title."; and

(10) adding at the end the following:

"(d) Nothing in this section prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for or otherwise representing his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

"(1) in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

"(2) in those matters that are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

Grants.
Contracts.
Federal Register, publication.

"(e) Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.".

SEC. 403. AMENDMENT TO SECTION 204 OF TITLE 18, UNITED STATES CODE.

Section 204 of title 18, United States Code, is amended to read as follows:

"§ 204. Practice in United States Claims Court or the United States Court of Appeals for the Federal Circuit by Members of Congress

"Whoever, being a Member of Congress or Member of Congress Elect, practices in the United States Claims Court or the United States Court of Appeals for the Federal Circuit shall be subject to the penalties set forth in section 216 of this title.".

SEC. 404. AMENDMENT TO SECTION 205 OF TITLE 18, UNITED STATES CODE.

Section 205 of title 18, United States Code, is amended to read as follows:

"§ 205. Activities of officers and employees in claims against and other matters affecting the Government

"(a) Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties—

"(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim; or

"(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any covered matter in which the United States is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

District of Columbia.

"(b) Whoever, being an officer or employee of the District of Columbia or an officer or employee of the Office of the United States Attorney for the District of Columbia, otherwise than in the proper discharge of official duties—

"(1) acts as agent or attorney for prosecuting any claim against the District of Columbia, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

"(2) acts as agent or attorney for anyone before any department, agency, court, officer, or any commission in connection with any covered matter in which the District of Columbia is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

"(c) A special Government employee shall be subject to subsections (a) and (b) only in relation to a covered matter involving a specific party or parties—

"(1) in which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

"(2) which is pending in the department or agency of the Government in which he is serving.

Paragraph (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

"(d) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for, or otherwise representing, any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings

"(e) Nothing in subsection (a) or (b) prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for, or otherwise representing, his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

"(1) in those matters in which he has participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or

"(2) in those matters which are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

Grants.
Contracts.
Federal Register, publication.

"(f) Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

"(g) Nothing in this section prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

"(h) For the purpose of this section, the term 'covered matter' means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.".

SEC. 405. AMENDMENTS TO SECTION 208 OF TITLE 18, UNITED STATES CODE.

Section 208 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or" after "United States Government,";

(B) by inserting "an officer or employee" before "of the District of Columbia";

(C) by striking "partner" and inserting "general partner"; and

(D) by striking "Shall be fined not more than $10,000, or imprisoned not more than two years, or both." and inserting "Shall be subject to the penalties set forth in section 216 of this title."; and

(2) by striking subsection (b) and inserting the following:

"(b) Subsection (a) shall not apply—

"(1) if the officer or employee first advises the Government official responsible for appointment to his or her position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee;

"(2) if, by regulation issued by the Director of the Office of Government Ethics, applicable to all or a portion of all officers and employees covered by this section, and published in the Federal Register, the financial interest has been exempted from the requirements of paragraph (1) as being too remote or too inconsequential to affect the integrity of the services of the

Government officers or employees to which such regulation applies;

"(3) in the case of a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act (including an individual being considered for an appointment to such a position), the official responsible for the employee's appointment, after review of the financial disclosure report filed by the individual pursuant to section 107 of the Ethics in Government Act of 1978, certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved; or

Indians.
Alaska.

"(4) the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee, or his or her spouse or minor child, in birthrights—

"(A) in an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians,

"(B) in an Indian allotment the title to which is held in trust by the United States or which is inalienable by the allottee without the consent of the United States, or

Claims.

"(C) in an Indian claims fund held in trust or administered by the United States,

if the particular matter does not involve the Indian allotment or claims fund or the Indian tribe, band, nation, organized group or community, or Alaska Native village corporation as a specific party or parties.

"(c)(1) For the purpose of paragraph (1) of subsection (b), in the case of class A and B directors of Federal Reserve Banks, the Board of Governors of the Federal Reserve System shall be deemed to be the Government official responsible for appointment.

"(2) The potential availability of an exemption under any particular paragraph of subsection (b) does not preclude an exemption being granted pursuant to another paragraph of subsection (b).

Public information.

"(d)(1) A copy of any determination by other than the Director of the Office of Government Ethics granting an exemption pursuant to subsection (b)(1) or (b)(3) shall be submitted to the Director, who shall make all determinations available to the public pursuant to section 105 of the Ethics in Government Act of 1978. For determinations pursuant to subsection (b)(3), the information from the financial disclosure report of the officer or employee involved describing the asset or assets that necessitated the waiver shall also be made available to the public. This subsection shall not apply, however, if the head of the agency or his or her designee determines that the determination under subsection (b)(1) or (b)(3), as the case may be, involves classified information.

Classified information.

Regulations.

"(2) The Office of Government Ethics, after consultation with the Attorney General, shall issue uniform regulations for the issuance of waivers and exemptions under subsection (b) which shall—

"(A) list and describe exemptions; and

"(B) provide guidance with respect to the types of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from the employee.".

SEC. 406. AMENDMENT TO SECTION 209 OF TITLE 18, UNITED STATES CODE.

Section 209(a) of title 18, United States Code, is amended by striking "Shall be fined not more than $5,000 or imprisoned not more than one year, or both." and inserting "Shall be subject to the penalties set forth in section 216 of this title.".

SEC. 407. PENALTIES AND INJUNCTIONS.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 215 the following new section:

"§ 216. Penalties and injunctions

"(a) The punishment for an offense under sections 203, 204, 205, 207, 208, and 209 of this title is the following:

"(1) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year or fined in the amount set forth in this title, or both.

"(2) Whoever willfully engages in the conduct constituting the offense shall be imprisoned for not more than five years or fined in the amount set forth in this title, or both.

"(b) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under sections 203, 204, 205, 207, 208, and 209 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(c) If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended by inserting after the item relating to section 215 the following:

"216. Penalties and injunctions.".

TITLE V—OTHER ETHICS REFORMS

SEC. 501. REFERRAL OF ETHICS VIOLATIONS BY THE SENATE ETHICS COMMITTEE TO THE GENERAL ACCOUNTING OFFICE FOR INVESTIGATION.

2 USC 72a-1g.

If the Committee on Ethics of the Senate determines that there is a reasonable basis to believe that a Member, officer, or employee of the Senate may have committed an ethics violation, the committee may request the Office of Special Investigations of the General

Accounting Office to conduct factfinding and an investigation into the matter. The Office of Special Investigations shall promptly investigate the matter as directed by the committee.

Taxes.

SEC. 502. NONRECOGNITION FOR CERTAIN SALES TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

(a) General Rule.—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. SALE OF PROPERTY TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

"(a) Nonrecognition of Gain.—If an eligible person sells any property pursuant to a certificate of divestiture, at the election of the taxpayer, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost (reduced by any basis adjustment under subsection (c) attributable to a prior sale) of any permitted property purchased by the taxpayer during the 60-day period beginning on the date of such sale.

"(b) Definitions.—For purposes of this section—

"(1) Eligible person.—The term 'eligible person' means—

"(A) an officer or employee of the executive branch of the Federal Government, but does not mean a special Government employee as defined in section 202 of title 18, United States Code, and

"(B) any spouse or minor or dependent child whose ownership of any property is attributable under any statute, regulation, rule, or executive order referred to in paragraph (2) to a person referred to in subparagraph (A).

"(2) Certificate of divestiture.—The term 'certificate of divestiture' means any written determination—

"(A) that states that divestiture of specific property is reasonably necessary to comply with any Federal conflict of interest statute, regulation, rule, or executive order (including section 208 of title 18, United States Code), or requested by a congressional committee as a condition of confirmation,

"(B) that has been issued by the President or the Director of the Office of Government Ethics, and

"(C) that identifies the specific property to be divested.

"(3) Permitted property.—The term 'permitted property' means any obligation of the United States or any diversified investment fund approved by regulations issued by the Office of Government Ethics.

"(4) Purchase.—The taxpayer shall be considered to have purchased any permitted property if, but for subsection (c), the unadjusted basis of such property would be its cost within the meaning of section 1012.

"(c) Basis Adjustments.—If gain from the sale of any property is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any permitted property which is purchased by the taxpayer during the 60-day period described in subsection (a).".

(b) Technical Amendments.—

(1) Section 1223 of such Code (relating to holding period of property) is amended by redesignating paragraph (14) as para-

graph (15) and by inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property had been held as of the date of such sale.".

(2) Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) in the case of property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in section 1043(c).".

(3) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1043. Sale of property to comply with conflict-of-interest requirements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act. 26 USC 1016 note.

SEC. 503. USE OF GOVERNMENT VEHICLES.

31 USC 1344 note.

Notwithstanding any other provision of law, the head of each department, agency, or other entity of each branch of the Government shall prescribe by rule appropriate conditions for the incidental use, for other than official business, of vehicles owned or leased by the Government. Such use with respect to vehicles owned or leased by, or the cost of which is reimbursed by, the House of Representatives or the Senate shall be only as prescribed by rule of the House of Representatives or the Senate, as applicable.

SEC. 504. AMENDMENT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 TO ELIMINATE THE EXCESS CAMPAIGN FUND GRANDFATHER PROVISION.

(a) IN GENERAL.—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by striking ", with respect to" and all that follows through "1979,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)— 2 USC 439a note.

(1) in the case of an individual who serves as a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress in the 102nd Congress or an earlier Congress, shall apply, except as provided in paragraph (2), to the use of excess amounts totaling more than the amount equal to the unobligated balance on hand on the date of the enactment of this Act; and

(2) in the case of an individual who serves as a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress after the 102nd Congress (including an individual referred to in paragraph (1) who so serves), shall apply to the use of any excess amount on or after the first day of such service.

SEC. 505. REPEAL OF CERTAIN OBSOLETE PROVISIONS.

(a) RESTRICTION ON PAYMENT TO CERTAIN RETIRED MILITARY OFFICERS.—Subsection (a) of section 801 of title 37, United States Code, is repealed.

(b) INTERIOR APPROPRIATIONS.—Section 319 of the Act of September 27, 1988 (Interior Department Appropriations, Fiscal Year 1988) (Public Law 100-446, 102 Stat. 1774, 1826) is repealed.

18 USC 208 note.

SEC. 506. RECERTIFICATION OF SENIOR EXECUTIVES.

(a) Chapter 33 of title 5, United States Code, is amended—

(1) by inserting immediately following section 3393 the following new section:

"§ 3393a. Recertification

"(a)(1) In order to ensure that the performance of career appointees demonstrates the excellence needed to meet the goals of the Senior Executive Service, as set forth in section 3131, each career appointee shall be subject to recertification by the employing agency in accordance with the provisions of this section.

"(2) Beginning in calendar year 1991, and recurring every third calendar year thereafter, the head of an agency shall determine a time during such calendar year when the performance of career appointees in the agency shall be subject to recertification. Recertification shall not be required of any career appointee who has not been continuously employed as a senior executive for the 156 weeks preceding the time determined for the recertification. For the purposes of the previous sentence, a break in service of 6 months shall be deemed not to interrupt the 156 weeks of continuous employment.

"(b) The supervising official of each career appointee shall submit to a performance review board established by the agency under section 4314 a recommendation as to whether the career appointee's performance justifies recertification as a senior executive, based on such factors as the career appointee's performance ratings for the 3 preceding years under section 4314, any award or other recognition received by the career appointee, any developmental activities of the career appointee, and any other relevant factors. The supervising official's recommendation shall reflect that official's view as to whether the career appointee's overall performance over the 3 preceding years has demonstrated the excellence expected of a senior executive in relation to the written performance requirements for the career appointee's senior executive position as established under section 4312(b). The career appointee may submit to the performance review board a statement of accomplishments and other documentation giving evidence of the quality of the career appointee's performance.

"(c)(1) After considering the recommendation and other information received under subsection (b), the performance review board shall submit to the appointing authority a recommendation as to whether the career appointee should be recertified, conditionally recertified, or not recertified as a senior executive. If the board proposes to recommend conditional recertification or nonrecertification, then the affected appointee shall be so notified and shall have the opportunity to appear before the performance review board. If the board is recommending that the career appointee be recertified, the board may also recommend that the career appointee's rate of basic pay be increased to a higher rate established under section 5382. If the board is recommending that the career appointee be conditionally recertified, the board may recommend that the career appointee's pay be reduced to the next lower rate established under section 5382. The board shall also provide to the appointing authority the recommendation and other information received under subsection (b).

"(2) More than one-half of the members of a performance review board under this section shall consist of career appointees. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement.

"(d)(1) If the appointing authority determines that the career appointee's performance during the preceding 3 years demonstrates the excellence expected of a senior executive, the appointing authority shall recommend to the head of the agency that the career appointee be recertified as a senior executive.

"(2) If the appointing authority determines that the career appointee's performance has not demonstrated the excellence expected of a senior executive, the appointing authority shall recommend to the head of the agency that the career appointee be conditionally recertified as a senior executive or not be recertified as a senior executive.

"(e)(1) If the head of the agency decides that the career appointee's performance warrants recertification as a senior executive, the career appointee shall continue in the Senior Executive Service. If a career appointee is recertified as a senior executive, the career appointee's rate of basic pay may not be reduced at the time of recertification.

"(2) If the head of the agency decides that the career appointee's performance does not warrant full recertification, but does warrant conditional recertification, the career appointee—

"(A) shall remain a career appointee in the Senior Executive Service;

"(B) shall be subject to continuing close review of the career appointee's performance by the supervising official in coordination with an executive resources board established under section 3393, in accordance with a performance improvement plan developed by the supervising official and subject to the approval of the executive resources board;

"(C) may, if the head of the agency so determines, be reduced to the next lower rate of basic pay established under section 5382; and

"(D) shall be removed from the Senior Executive Service if the career appointee is not recertified as a senior executive at the end of the 12-month period following the conditional recertification.

If, at the end of the 12-month period following the conditional recertification, the career appointee is recertified as a senior executive, any reduction that was made in the career appointee's rate of basic pay under subparagraph (C) shall be restored prospectively.

"(3) If the head of the agency decides that the career appointee's performance does not demonstrate that the career appointee qualifies for recertification or conditional recertification as a senior executive, the career appointee shall be removed from the Senior Executive Service in accordance with section 3592.

"(f) The Office of Personnel Management shall prescribe standards and procedures to ensure consistency and fairness for the process of recertification under this section.".

(2) by inserting in the analysis, immediately following the item relating to section 3393, the following new item:

"3393a. Recertification.".

(b) Title 5, United States Code, is further amended as follows:

(1) in section 3151(a)(5)—

(A) by striking "and" at the end of subparagraph (C);

(B) by inserting "and" after the semicolon at the end of subparagraph (D); and

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) recertification consistent with section 3393a;";

(2) in section 3393(g), by inserting after "1207," the following: "3393a,";

(3) in section 3592(a)—

(A) by striking "or" at the end of paragraph (1);

(B) by inserting "or" after the comma at the end of paragraph (2);

(C) by inserting after paragraph (2) the following new paragraph:

"(3) if the career appointee is not recertified as a senior executive under section 3393a,"; and

(D) by inserting at the end thereof the following: "In the case of a removal under paragraph (3) of this subsection, the career appointee shall have the right to appeal the removal from the Senior Executive Service to the Merit Systems Protection Board under section 7701.";

(4) in section 3593(a)(2)—

(A) by striking "or";

(B) by striking the period and inserting in lieu thereof the following: ", or failure to be recertified as a senior executive under section 3393a.";

(5) in section 3594(b)—

(A) by striking "or" at the end of paragraph (1);

(B) by inserting "or" after the semicolon at the end of paragraph (2); and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) is removed from the Senior Executive Service for failure to be recertified under section 3393a;";

(6) in section 7701(c)(1)(A) by striking "of" and inserting in lieu thereof the following: "of a removal from the Senior Executive Service for failure to be recertified under section 3393a or";

(7) in section 8336(h)—

(A) in paragraph (1) by striking "for" and inserting in lieu thereof the following: "for failure to be recertified as a senior executive under section 3393a or for";

(B) in paragraph (2) by striking "for" and inserting in lieu thereof the following: "for failure to be recertified as a senior executive or for"; and

(C) in paragraph (3) by striking "for" and inserting in lieu thereof the following: "for failure to be recertified as a senior executive or for";

(8) in section 8339(h) by striking the period at the end of the first sentence and inserting in lieu thereof the following: ", except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive.";

(9) in section 8414(a)—

(A) in paragraph (1) by striking "for" and inserting in lieu thereof the following: "for failure to be recertified as a senior executive under section 3393a or for";

(B) in paragraph (2) by striking "for" and inserting in lieu thereof the following: "for failure to be recertified as a senior executive or for"; and

(C) in paragraph (3) by striking "for" and inserting in lieu thereof the following: "for failure to be recertified as a senior executive or for"; and

(10) in section 8421(a)(2) by striking the period and inserting in lieu thereof the following: ", except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable minimum retirement age".

(c)(1) Section 305 of the Foreign Service Act of 1980 is amended by inserting at the end thereof the following new subsection: 22 USC 3945.

"(c) The Secretary shall by regulation establish a recertification process for members of the Senior Foreign Service that is equivalent to the recertification process for the Senior Executive Service under section 3393a of title 5, United States Code.". Regulations.

(2) Section 12(a)(1) of the National Security Agency Act of 1959 is amended— 50 USC 402 note.

(A) by striking "and" at the end of paragraph (F);

(B) by inserting "and" after the semicolon at the end of paragraph (G); and

(C) by inserting after paragraph (G) the following new paragraph:

"(H) provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a of such title.".

(3) Section 1601(a) of title 10, United States Code, is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by inserting "and" after the semicolon at the end of paragraph (7); and

(C) by inserting after paragraph (7) the following new paragraph:

"(8) provide for the recertification of members of the Defense Intelligence Senior Executive Service consistent with the provisions of section 3393a of title 5.".

(d) The amendments made by this section shall take effect on January 1, 1991. Effective date. 5 USC 3151 note.

SEC. 507. SUSPENSION OF EFFECT OF CERTAIN PROVISIONS OF LAW.

The following provisions of law shall have no force or effect during the period beginning on the day after the date of enactment of this Act and ending one year after such day:

(1) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423). 41 USC 423 note.

(2) Sections 2397a and 2397b of title 10, United States Code. 10 USC 2397a note, 2397b note.

18 USC 281 note.

(3) Section 281 of title 18, United States Code.

42 USC 7213 note, 7214 note, 7215 note, 7216 note, 7217 note, 7218 note.

(4) Sections 603 through 606, subsections (a) and (b) of section 607, and subsections (a) and (c) of section 608 of the Department of Energy Organization Act.

TITLE VI—LIMITATIONS ON OUTSIDE EMPLOYMENT AND ELIMINATION OF HONORARIA

SEC. 601. LIMITATIONS ON OUTSIDE EARNED INCOME AND EMPLOYMENT.

(a) LIMITATIONS.—Title V of the Ethics in Government Act of 1978 is amended to read as follows:

"TITLE V—GOVERNMENT-WIDE LIMITATIONS ON OUTSIDE EARNED INCOME AND EMPLOYMENT

5 USC app. 501.

"SEC. 501. OUTSIDE EARNED INCOME LIMITATION.

"(a) OUTSIDE EARNED INCOME LIMITATION.—

"(1) Except as provided by paragraph (2), a Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code, may not in any calendar year have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year.

"(2) In the case of any individual who becomes a Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule during a calendar year, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member, officer or employee during such calendar year and the denominator of which is 365.

"(b) HONORARIA PROHIBITION.—An individual may not receive any honorarium while that individual is a Member, officer or employee.

"(c) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Any honorarium which, except for subsection (b), might be paid to a Member, officer or employee, but which is paid instead on behalf of such Member, officer or employee to a charitable organization, shall be deemed not to be received by such Member, officer or employee. No such payment shall exceed $2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

“SEC. 502. LIMITATIONS ON OUTSIDE EMPLOYMENT.

5 USC app. 502.

“A Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule shall not—

“(1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involves a fiduciary relationship for compensation;

“(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

“(3) practice a profession which involves a fiduciary relationship for compensation;

“(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

“(5) receive compensation for teaching, without the prior notification and approval of the appropriate entity referred to in section 503.

“SEC. 503. ADMINISTRATION.

5 USC app. 503.

“This title shall be subject to the rules and regulations of—

“(1) and administered by the committee of the House of Representatives assigned responsibility for administering the reporting requirements of title I with respect to Members, officers and employees of the House of Representatives;

“(2) the Office of Government Ethics and administered by designated agency ethics officials with respect to officers and employees of the executive branch; and

“(3) and administered by the Judicial Conference of the United States (or such other agency as it may designate) with respect to officers and employees of the judicial branch.

“SEC. 504. CIVIL PENALTIES.

5 USC app. 504.

“(a) Civil Action.—The Attorney General may bring a civil action in any appropriate United States district court against any individual who violates any provision of section 501 or 502. The court in which such action is brought may assess against such individual a civil penalty of not more than $10,000 or the amount of compensation, if any, which the individual received for the prohibited conduct, whichever is greater.

“(b) Advisory Opinions.—Any entity described in section 503 may render advisory opinions interpreting this title, in writing, to individuals covered by this title. Any individual to whom such an advisory opinion is rendered and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who, after the issuance of such advisory opinion, acts in good faith in accordance with its provisions and findings shall not, as a result of such actions, be subject to any sanction under subsection (a).

“SEC. 505. DEFINITIONS.

5 USC app. 505.

“For purposes of this title:

“(1) The term ‘Member’ means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

“(2) The term ‘officer or employee’ means any officer or employee of the Government except (A) any individual (other than the Vice President) whose compensation is disbursed by the Secretary of the Senate or (B) any special Government employee (as defined in section 202 of title 18, United States Code).

"(3) The term 'honorarium' means a payment of money or any thing of value for an appearance, speech or article by a Member, officer or employee, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.

"(4) The term 'travel expenses' means, with respect to a Member, officer or employee, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.

"(5) The term 'charitable organization' means an organization described in section 170(c) of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENTS.—

(1) Section 323 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is amended—

(A) in subsection (a) by striking "No person while an elected or appointed officer or employee of the Federal Government" and by inserting "No person while a Senator or officer or employee of the Senate", and by striking "accept" the first place it appears; and

(B) in subsection (b) by striking "an elected or appointed officer or employee of any branch of the Federal Government" and by inserting "a Senator or any officer or employee of the Senate".

(2) Section 908(a)(3) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1(a)(3)), is amended to read as follows:

"(3) 'Member' means a Senator; and".

SEC. 602. TAX TREATMENT OF AMOUNTS PAID TO CHARITY.

26 USC 7701.

Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following:

"(k) TREATMENT OF CERTAIN AMOUNTS PAID TO CHARITY.—In the case of any payment which, except for section 501(b) of the Ethics in Government Act of 1978, might be made to any officer or employee of the Federal Government but which is made instead on behalf of such officer or employee to an organization described in section 170(c)—

State and local governments.

"(1) such payment shall not be treated as received by such officer or employee for all purposes of this title and for all purposes of any tax law of a State or political subdivision thereof, and

"(2) no deduction shall be allowed under any provision of this title (or of any tax law of a State or political subdivision thereof) to such officer or employee by reason of having such payment made to such organization.

For purposes of this subsection, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government and a Senator or officer (except the Vice President) or employee of the Senate shall not be treated as an officer or employee of the Federal Government.".

SEC. 603. EFFECTIVE DATE.

2 USC 31-1 note.

The amendments made by this title shall take effect on January 1, 1991. Such amendments shall cease to be effective if the provisions of section 703 are subsequently repealed, in which case the laws in effect before such amendments shall be deemed to be reenacted.

TITLE VII—CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION

SEC. 701. CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION.

(a) REDESIGNATION.—

(1) IN GENERAL.—Section 225(a) of the Federal Salary Act of 1967 (2 U.S.C. 351) is amended by striking "Commission on Executive, Legislative, and Judicial Salaries" and inserting "Citizens' Commission on Public Service and Compensation".

(2) CONFORMING AMENDMENT.—The heading for section 225 of such Act (2 U.S.C. 351 and following) is amended to read as follows:

"CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION".

(b) MEMBERSHIP.—Section 225(b) of such Act (2 U.S.C. 352) is amended to read as follows:

"(b) MEMBERSHIP.—

"(1) The Commission shall be composed of 11 members, who shall be appointed from private life as follows:

"(A) 2 appointed by the President of the United States;

President of U.S.

"(B) 1 appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders of the Senate;

"(C) 1 appointed by the Speaker of the House of Representatives;

"(D) 2 appointed by the Chief Justice of the United States; and

"(E) 5 appointed by the Administrator of General Services in accordance with paragraph (4).

"(2) No person shall serve as a member of the Commission who is—

"(A) an officer or employee of the Federal Government;

"(B) registered (or required to register) under the Federal Regulation of Lobbying Act; or

"(C) a parent, sibling, spouse, child, or dependent relative, of anyone under subparagraph (A) or (B).

"(3) The persons appointed under subparagraphs (A) through (D) of paragraph (1) shall be selected without regard to political affiliation, and should be selected from among persons who have experience or expertise in such areas as government, personnel management, or public administration.

Regulations.

"(4) The Administrator of General Services shall by regulation establish procedures under which persons shall be selected for appointment under paragraph (1)(E). Such procedures—

"(A) shall be designed in such a way so as to provide for the maximum degree of geographic diversity practicable among members under paragraph (1)(E);

"(B) shall include provisions under which those members shall be chosen by lot from among names randomly selected from voter registration lists; and

"(C) shall otherwise comply with applicable provisions of this subsection.

President of U.S.

"(5) The chairperson shall be designated by the President.

"(6) A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

"(7) Each member of the Commission shall be paid at the rate of $100 for each day such member is engaged upon the work of the Commission and shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when engaged in the performance of services for the Commission.

"(8)(A) The terms of office of persons first appointed as members of the Commission shall be for the period of the 1993 fiscal year of the Federal Government, and shall begin not later than February 14, 1993.

"(B) After the close of the 1993 fiscal year of the Federal Government, persons shall be appointed as members of the Commission with respect to every fourth fiscal year following the 1993 fiscal year. The terms of office of persons so appointed shall be for the period of the fiscal year with respect to which the appointment is made, except that, if any appointment is made after the beginning and before the close of any such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

"(C)(i) Notwithstanding any provision of subparagraph (A) or (B), members of the Commission may continue to serve after the close of a fiscal year, if the date designated by the President under subsection (g) (relating to the date by which the Commission is to submit its report to the President) is subsequent to the close of such fiscal year, and only if or to the extent necessary to allow the Commission to submit such report.

"(ii) Notwithstanding any provision of subsection (c), authority under such subsection shall remain available, after the close of a fiscal year, so long as members of the Commission continue to serve.".

(c) Amendments to Section 225(c).—Section 225(c) of such Act (2 U.S.C. 353) is amended by striking "subsection (b) (2) and (3)" each place it appears and inserting "subparagraphs (A) and (B) of subsection (b)(8)".

(d) Amendment to Section 225(f).—Section 225(f) of such Act (2 U.S.C. 356) is amended by striking "subsection (b) (2) and (3)" and inserting "subparagraphs (A) and (B) of subsection (b)(8)".

(e) Report to the President.—Section 225(g) of such Act (2 U.S.C. 357) is amended—

(1) by amending the subsection heading to read as follows: "Report by Commission to the President With Respect to Pay";

(2) in the first sentence, by striking "Commission of" and inserting "Commission with respect to rates of pay for"; and

(3) in the second sentence, by striking "December 15" and all that follows thereafter through the period and inserting "December 15 next following the close of the fiscal year in which the review is conducted by the Commission.".

(f) RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO PAY.—Section 225(h) of such Act (2 U.S.C. 358) is amended to read as follows:

"(h) RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO PAY.—

"(1) After considering the report and recommendations of the Commission submitted under subsection (g), the President shall transmit to Congress his recommendations with respect to the exact rates of pay, for offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of subsection (f), which the President considers to be fair and reasonable in light of the Commission's report and recommendations, the prevailing market value of the services rendered in the offices and positions involved, the overall economic condition of the country, and the fiscal condition of the Federal Government.

"(2) The President shall transmit his recommendations under this subsection to Congress on the first Monday after January 3 of the first calendar year beginning after the date on which the Commission submits its report and recommendations to the President under subsection (g).".

(g) EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.—Section 225(i) of such Act (2 U.S.C. 359) is amended to read as follows:

"(i) EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.—

"(1) None of the President's recommendations under subsection (h) shall take effect unless approved under paragraph (2).

"(2)(A) The recommendations of the President under subsection (h) shall be considered approved under this paragraph if there is enacted into law a bill or joint resolution approving such recommendations in their entirety. This bill or joint resolution shall be passed by recorded vote to reflect the vote of each Member of Congress thereon.

"(B)(i) The provisions of this subparagraph are enacted by the Congress—

"(I) as an exercise of the rulemaking power of the Senate and the House of Representatives and as such shall be considered as part of the rules of each House, and shall supersede other rules only to the extent that they are inconsistent therewith; and

"(II) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(ii) During the 60-calendar-day period beginning on the date that the President transmits his recommendations to the Congress under subsection (h), it shall be in order as a matter of highest privilege in each House of Congress to consider a bill or joint resolution, if offered by the majority leader of such House (or a designee), approving such recommendations in their entirety.

"(3) Except as provided in paragraph (4), any recommended pay adjustment approved under paragraph (2) shall take effect as of the date proposed by the President under subsection (h) with respect to such adjustment.

"(4)(A) Notwithstanding the approval of the President's pay recommendations in accordance with paragraph (2), none of those recommendations shall take effect unless, between the date on which the bill or resolution approving those recommendations is signed by the President (or otherwise becomes law) and the earliest date as of which the President proposes (under subsection (h)) that any of those recommendations take effect, an election of Representatives shall have intervened.

"(B) For purposes of this paragraph, the term 'election of Representatives' means an election held on the Tuesday following the first Monday of November in any even-numbered calendar year.".

(h) Amendment to Section 225(j).—Section 225(j)(A) of such Act (2 U.S.C. 360(A)) is amended by striking "(other than" and all that follows thereafter through ", and" and inserting "(other than any provision of law enacted with respect to such recommendations in the period beginning on the date the President transmits his recommendations to the Congress under subsection (h) and ending on the date of their approval under subsection (i)(2)), and".

(i) Requirements Applicable to Recommendations.—Section 225 of such Act (2 U.S.C. 351 and following) is amended by adding at the end the following:

2 USC 362.

"(l) Requirements Applicable to Recommendations.—Notwithstanding any other provision of this section, the recommendations submitted by the Commission to the President under subsection (g), and the recommendations transmitted by the President to the Congress under subsection (h), shall be in conformance with the following:

"(1) Any recommended pay adjustment shall specify the date as of which it is proposed that such adjustment take effect.

"(2) The proposed effective date of a pay adjustment may occur no earlier than January 1 of the second fiscal year, and no later than December 31 next following the close of the fifth fiscal year, beginning after the fiscal year in which the Commission conducts its review under subsection (f).

"(3)(A)(i) The rates of pay recommended for the Speaker of the House of Representatives, the Vice President of the United States, and the Chief Justice of the United States, respectively, shall be equal.

"(ii) The rates of pay recommended for the majority and minority leaders of the Senate and the House of Representatives, the President pro tempore of the Senate, and each office or position under section 5312 of title 5, United States Code (relating to level I of the Executive Schedule), respectively, shall be equal.

"(iii) The rates of pay recommended for a Senator, a Member of the House of Representatives, the Resident Commissioner from Puerto Rico, a Delegate to the House of Representatives, a judge of a district court of the United States, a judge of the United States Court of International Trade, and each office or position under section 5313 of title 5, United States Code (relating to level II of the Executive Schedule), respectively, shall be equal.

"(B) Nothing in this subsection shall be considered to require that the rate recommended for any office or position by the President under subsection (h) be the same as the rate recommended for such office or position by the Commission under subsection (g).".

(j) ADDITIONAL FUNCTION.—Section 225 of such Act (2 U.S.C. 351 and following), as amended by subsection (i), is further amended by adding at the end the following: 2 USC 363.

"(m) ADDITIONAL FUNCTION.—The Commission shall, whenever it conducts a review under subsection (f), also conduct a review under this subsection relating to any recruitment or retention problems, and any public policy issues involved in maintaining appropriate ethical standards, with respect to any offices or positions within the Federal public service. Any findings or recommendations under this subsection shall be included by the Commission as part of its report to the President under subsection (g).". Reports.

(k) PROVISION RELATING TO CERTAIN OTHER PAY ADJUSTMENTS.—Section 225 of such Act (2 U.S.C. 351 and following) is amended by adding after subsection (m) (as added by subsection (j)) the following: 2 USC 364.

"(n) PROVISION RELATING TO CERTAIN OTHER PAY ADJUSTMENTS.—

"(1) A provision of law increasing the rate of pay payable for an office or position within the purview of subparagraph (A), (B), (C), or (D) of subsection (f) shall not take effect before the beginning of the Congress following the Congress during which such provision is enacted.

"(2) For purposes of this subsection, a provision of law enacted during the period beginning on the Tuesday following the first Monday of November of an even-numbered year of any Congress and ending at noon on the following January 3 shall be considered to have been enacted during the first session of the following Congress.

"(3) Nothing in this subsection shall be considered to apply with respect to any pay increase—

"(A) which takes effect under the preceding subsections of this section;

"(B) which is based on a change in the Employment Cost Index (as determined under section 704(a)(1) of the Ethics Reform Act of 1989) or which is in lieu of any pay adjustment which might otherwise be made in a year based on a change in such index (as so determined); or

"(C) which takes effect under section 702 or 703 of the Ethics Reform Act of 1989.".

SEC. 702. RESTORATION OF COMPARABILITY ADJUSTMENTS.

5 USC 5305 note.

(a) RESTORATION.—

(1) IN GENERAL.—Effective for pay periods beginning on or after the date of enactment of this Act, the rate of basic pay for any office or position in the executive, legislative, or judicial branch of the Government or in the government of the District of Columbia shall be determined as if the provisions of law cited in paragraph (2) had never been enacted. District of Columbia.

(2) CITATIONS.—The provisions of law referred to in paragraph (1) are as follows:

(A) Section 620(b) of the Treasury, Postal Service and General Government Appropriations Act, 1989 (2 U.S.C. 5305 note). 5 USC 5305 note.

(B) Section 619(b) of the Treasury, Postal Service and General Government Appropriations Act, 1990 (Public Law 101-136).

5 USC 5305 note.

(b) Exceptions.—Notwithstanding any other provision of this section, the rate of basic pay for a Senator, the President pro tempore of the Senate, and the majority leader and the minority leader of the Senate shall be determined as if subsection (a) had not been enacted.

(c) Specific Authority.—For purposes of section 140 of Public Law 97-92 (28 U.S.C. 461 note), appropriate salary increases are hereby authorized for Federal judges and Justices of the Supreme Court pursuant to subsection (a).

(d) Special Rule.—Notwithstanding any other provision of this section, no adjustment in any rate of pay shall become effective, as a result of the enactment of this section, before the first applicable pay period beginning on or after the date as of which the order issued by the President on October 16, 1989, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is rescinded.

5 USC 5318 note.

SEC. 703. SALARY LEVELS OF SENIOR GOVERNMENT OFFICIALS.

(a) Salary Levels.—

(1) Executive positions.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for positions in the Executive Schedule shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100).

(2) Legislative positions; office of the vice president.—

(A) Generally.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the offices and positions under subparagraphs (A) and (B) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356 (A) and (B)) shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100), except as provided in subparagraph (B).

(B) Exceptions.—Nothing in subparagraph (A) shall affect the rate of basic pay for a Senator, the President pro tempore of the Senate, or the majority leader or the minority leader of the Senate.

(3) Judicial positions.—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the Chief Justice of the United States, an associate justice of the Supreme Court of the United States, a judge of a United States circuit court, a judge of a district court of the United States, and a judge of the United States Court of International Trade shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of $100 (or, if midway between multiples of $100, to the next higher multiple of $100).

(b) Coordination Rule.—If a pay adjustment under subsection (a) is to be made for an office or position as of the same date as any other pay adjustment affecting such office or position, the adjustment under subsection (a) shall be made first.

SEC. 704. REVISION IN METHOD BY WHICH ANNUAL PAY ADJUSTMENTS FOR CERTAIN EXECUTIVE, LEGISLATIVE, AND JUDICIAL POSITIONS ARE TO BE MADE.

5 USC 5318 note.

(a) PERCENT CHANGE IN THE EMPLOYMENT COST INDEX.—

(1) METHOD FOR COMPUTING PERCENT CHANGE IN THE ECI.—

(A) DEFINITIONS.—For purposes of this paragraph—

(i) the term "Employment Cost Index" or "ECI" means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics; and

(ii) the term "base quarter" means the 3-month period ending on December 31 of a year.

(B) METHOD.—For purposes of the provisions of law amended by paragraph (2), the "most recent percentage change in the ECI", as of any date, shall be one-half of 1 percent less than the percentage (rounded to the nearest one-tenth of 1 percent) derived by—

(i) reducing—

(I) the ECI for the last base quarter prior to that date, by

(II) the ECI for the second to last base quarter prior to that date,

(ii) dividing the difference under clause (i) by the ECI for the base quarter referred to in clause (i)(II), and

(iii) multiplying the quotient under clause (ii) by 100,

except that no percentage change determined under this paragraph shall be—

(I) less than zero; or

(II) greater than 5 percent.

(2) PROVISIONS THROUGH WHICH NEW METHOD IS TO BE IMPLEMENTED.—

(A) AMENDMENT TO TITLES 3, 5, AND 28 OF THE UNITED STATES CODE.—Section 104 of title 3, United States Code, section 5318 of title 5, United States Code, and section 461(a) of title 28, United States Code, are amended by striking "corresponds to" and all that follows thereafter through the period, and inserting the following:

"corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.".

(B) AMENDMENT TO THE LEGISLATIVE REORGANIZATION ACT OF 1946.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended by striking "corresponds to" and all that follows thereafter through the period and inserting the following:

"corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on January 1, 1991.

SEC. 705. WORK PERFORMED BY SENIOR JUDGES IN ORDER TO RECEIVE CERTAIN SALARY INCREASES.

(a) In General.—Section 371 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "(1)" after "(b)";

(B) by inserting "or her" after "his"; and

(C) by striking the period and inserting the following: "if he or she meets the requirements of subsection (f).

"(2) In a case in which a justice or judge who retires under paragraph (1) does not meet the requirements of subsection (f), the justice or judge shall continue to receive the salary that he or she was receiving when he or she was last in active service or, if a certification under subsection (f) was made for such justice or judge, when such a certification was last in effect. The salary of such justice or judge shall be adjusted under section 461 of this title."; and

(2) by adding at the end the following new subsection:

"(f)(1) In order to continue receiving the salary of the office under subsection (b), a justice must be certified in each calendar year by the Chief Justice, and a judge must be certified by the chief judge of the circuit in which the judge sits, as having met the requirements set forth in at least one of the following subparagraphs:

"(A) The justice or judge must have carried in the preceding calendar year a caseload involving courtroom participation which is equal to or greater than the amount of work involving courtroom participation which an average judge in active service would perform in three months. In the instance of a justice or judge who has sat on both district courts and courts of appeals, the caseload of appellate work and trial work shall be determined separately and the results of those determinations added together for purposes of this paragraph.

"(B) The justice or judge performed in the preceding calendar year substantial judicial duties not involving courtroom participation under subparagraph (A), including settlement efforts, motion decisions, writing opinions in cases that have not been orally argued, and administrative duties for the court to which the justice or judge is assigned. Any certification under this subparagraph shall include a statement describing in detail the nature and amount of work and certifying that the work done is equal to or greater than the work described in this subparagraph which an average judge in active service would perform in three months.

"(C) The justice or judge has, in the preceding calendar year, performed work described in subparagraphs (A) and (B) in an amount which, when calculated in accordance with such subparagraphs, in the aggregate equals at least 3 months work.

"(D) The justice or judge has, in the preceding calendar year, performed substantial administrative duties directly related to the operation of the courts, or has performed substantial duties for a Federal or State governmental entity. A certification under this subparagraph shall specify that the work done is equal to the full-time work of an employee of the judicial branch.

"(E) The justice or judge was unable in the preceding calendar year to perform judicial or administrative work to the extent required by any of subparagraphs (A) through (D) because of a temporary or permanent disability. A certification under this subparagraph shall be made to a justice who certifies in writing his or her disability to the Chief Justice, and to a judge who certifies in writing his or her disability to the chief judge of the circuit in which the judge sits. A justice or judge who is certified under this subparagraph as having a permanent disability shall be deemed to have met the requirements of this subsection for each calendar year thereafter.

"(2) Determinations of work performed under subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made pursuant to rules promulgated by the Judicial Conference of the United States. In promulgating such criteria, the Judicial Conference shall take into account existing standards promulgated by the Conference for allocation of space and staff for senior judges.

"(3) If in any year a justice or judge who retires under subsection (b) does not receive a certification under this subsection (except as provided in paragraph (1)(E)), he or she is thereafter ineligible to receive such a certification.

"(4) In the case of any justice or judge who retires under subsection (b) during a calendar year, there shall be included in the determination under this subsection of work performed during that calendar year all work performed by that justice or judge (as described in subparagraphs (A), (B), (C), and (D) of paragraph (1)) during that calendar year before such retirement.".

(b) Effective Date.— 28 USC 371 note.

(1) In general.—The amendments made by subsection (a) shall first apply with respect to work performed on or after January 1, 1990, by a justice or judge of the United States who has retired under section 371(b) of title 28, United States Code.

(2) Calendar year 1990.—In the case of certifications required by section 371(f) of title 28, United States Code, for calendar year 1990—

(A) such certifications shall be based on the 10-month period beginning on January 1, 1990, and ending on October 31, 1990, and shall be completed not later than December 15, 1990;

(B) determinations of work performed under section 371(f) of title 28, United States Code, shall be made pro rata on the basis of such 10-month period; and

(C) such certifications shall be deemed to be certifications made in calendar year 1991.

TITLE VIII—AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES

SEC. 801. ACCEPTANCE OF GIFTS.

(a) Dollar Limits.—Clause 4 of rule XLIII of the Rules of the House of Representatives is amended to read as follows:

"4. A Member, officer or employee of the House of Representatives shall not accept gifts (other than the personal hospitality of an individual or with a fair market value of $75 or less) in any calendar year aggregating more than the minimal value as established by paragraph (5) of section 7342 of title 5, United States Code, directly or indirectly from any person (other than from a relative), except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(1)(E) of rule X.".

(b) DEFINITIONS.—The last undesignated paragraph of rule XLIII of the Rules of the House of Representatives is amended—

(1) by striking the dash after "Conduct" and by striking "(1) The" and by inserting ", the";

(2) by striking "the person reporting" and by inserting "such Member, officer, or employee, and shall be deemed to include the fiance or fiancee of the Member, officer, or employee"; and

(3) by repealing subparagraph (2).

(c) Rule XLIII of the Rules of the House of Representatives is amended by inserting after clause 11 the following:

"12. (a) Except as provided by paragraph (b), any employee of the House of Representatives who is required to file a report pursuant to rule XLIV shall refrain from participating personally and substantially as an employee of the House of Representatives in any contact with any agency of the executive or judicial branch of Government with respect to non-legislative matters affecting any non-governmental person in which the employee has a significant financial interest.

"(b) Paragraph (a) shall not apply if an employee first advises his employing authority of his significant financial interest and obtains from his employing authority a written waiver stating that the participation of the employee is necessary. A copy of each such waiver shall be filed with the Committee on Standards of Official Conduct.".

(d) ADDITIONAL DUTIES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.—Clause 4(e)(1) of rule X of the Rules of the House of Representatives is amended by striking "and" before "(D)" and by inserting before the period the following: "; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII".

2 USC 29d note.

(e) ADVISORY OPINION AMENDMENTS.—The Committee on Standards of Official Conduct of the House of Representatives shall amend its advisory opinions relating to the acceptance of gifts (1) to prohibit lodging received as personal hospitality in excess of 30 days in any calendar year from any individual unless a written waiver is granted by the committee and (2) to exempt gifts of food and beverages consumed not in connection with gifts of lodging from coverage under clause 4 of rule XLIII of the Rules of the House of Representatives.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 802. USE OF OFFICIAL RESOURCES.

(a) QUALIFICATIONS OF OFFICERS AND EMPLOYEES.—Rule XLI of the Rules of the House of Representatives is amended to read as follows:

"RULE XLI.

"QUALIFICATIONS OF OFFICERS AND EMPLOYEES.

Claims.

"No person shall be an officer or employee of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government or be interested in such claim otherwise than as an original claimant or than in the proper discharge of official duties.".

(b) Rights and Duties of Staff.—(1) Clause 8 of rule XLIII of the Rules of the House of Representatives is amended to read as follows:

"8. A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority. In the case of committee employees who work under the direct supervision of a Member other than a chairman, the chairman may require that such Member affirm in writing that the employees have complied with the preceding sentence (subject to clause 6 of rule XI) as evidence of the chairman's compliance with this clause and with clause 6 of rule XI.".

(2) Clause 9 of rule XLIII of the Rules of the House of Representatives is amended by inserting "(including marital or parental status), handicap" after "sex" and by inserting before the period the following: ", but may take into consideration the domicile or political affiliation of such individual".

(3) Clause 6 of rule XI of the Rules of the House of Representatives is amended—

(A) in paragraph (a)(3) by striking subdivision (A) and by redesignating subdivisions (B) and (C) as subdivisions (A) and (B), respectively; and

(B) in paragraph (a)(3)(A) (as redesignated) by inserting "during congressional working hours" after "business"; and

(C) in paragraph (b)(1) by striking ", without regard to race, creed, sex, or age".

(c) Clarification of Political Activities.—The second sentence of clause 6 of rule XLIII of the Rules of the House of Representatives is amended to read as follows: "A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes.".

31 USC 1344 note.

(d) Use of Official Vehicles.—The Committee on House Administration of the House of Representatives shall take such action as may be necessary to carry out section 503 with respect to vehicles of the House of Representatives.

2 USC 29d note.

(e) Use of Campaign Vehicles.—The Committee on Standards of Official Conduct of the House of Representatives shall issue an advisory opinion to provide for appropriate conditions for the incidental noncampaign use of vehicles owned or leased by a campaign committee of a Member of the House of Representatives.

(f) Conforming Amendment.—Clause 1 of rule XLIV of the Rules of the House of Representatives is amended by striking "July 1" and by inserting "August 1" and by striking "May 15" and by inserting "June 15".

(g) Effective Date.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 803. REFORMS RESPECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

(a) Membership of Committee on Standards of Official Conduct.—Clause (6)(a)(2) of rule X of the Rules of the House of Representatives is amended by inserting at the end the following: "No Member shall serve as a member of the Committee on Standards of Official Conduct during more than 3 Congresses in any period of 5 successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress).".

2 USC 29d.

(b) Committee Composition.—The respective party caucus or conference of the House of Representatives shall each nominate to the House of Representatives at the beginning of each Congress 7 members to serve on the Committee on Standards of Official Conduct.

2 USC 29d.

(c) Investigative Subcommittees.—The Committee on Standards of Official Conduct shall adopt rules providing—

(1) for the establishment of a 4 or 6-member investigative subcommittee (with equal representation from the majority and minority parties) whenever the committee votes to undertake any investigation;

(2) that the senior majority and minority members on an investigative subcommittee shall serve as the chairman and ranking minority member of the subcommittee; and

(3) that the chairman and ranking minority member of the full committee may only serve as non-voting, ex officio members on an investigative subcommittee.

Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any investigative subcommittee.

2 USC 29d.

(d) Adjudicatory Subcommittees.—The Committee on Standards of Official Conduct shall adopt rules providing—

Reports.

(1) that upon the completion of an investigation, an investigative subcommittee shall report its findings and recommendations to the committee;

(2) that, if an investigative subcommittee by majority vote of its membership adopts a statement of alleged violation, the remaining members of the committee shall comprise an adjudicatory subcommittee to hold a disciplinary hearing on the violation alleged in the statement;

(3) that any statement of alleged violation and any written response thereto shall be made public at the first meeting or hearing on the matter which is open to the public after the respondent has been given full opportunity to respond to the statement in accordance with committee rules, but, if no public hearing or meeting is held on the matter, the statement of alleged violation and any written response thereto shall be included in the committee's final report to the House of Representatives as required by clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives;

(4) that a quorum for an adjudicatory subcommittee for the purpose of taking testimony and conducting any business shall consist of a majority of the membership of the subcommittee plus one; and

Reports.

(5) that an adjudicatory subcommittee shall determine, after receiving evidence, whether the counts in the statement have been proved and shall report its findings to the committee.

Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any adjudicatory subcommittee.

(e) Administrative Actions.—Clause 4(e)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting after "House" the second time it appears the following: ", and any letter of reproval or other administrative action of the committee pursuant to an investigation under subdivision (B) shall only be issued or implemented as a part of a report required by such subdivision".

(f) Report to the House.—Clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives is amended by striking everything after "hearing" through the semicolon and by inserting the following: "(unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances;".

(g) Statute of Limitations.—Clause 4(e)(2)(C) of rule X of the Rules of the House of Representatives is amended by inserting before the period the following: "; nor shall any investigation be undertaken by the committee of any alleged violation which occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to any alleged violation which occurred in a more recent Congress".

(h) Right to Counsel.—Clause 1 of rule XXXII of the Rules of the House of Representatives is amended by inserting "and one attorney to accompany any Member who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when the recommendation of such committee is under consideration;" after the last semicolon.

(i) Advice and Education.—

2 USC 29d.
Establishment.

(1) The Committee on Standards of Official Conduct shall establish within the committee an Office on Advice and Education (hereinafter in this subsection referred to as the "Office") under the supervision of the chairman.

(2) The Office shall be headed by a director who shall be appointed by the chairman, in consultation with the ranking minority member, and shall be comprised of such staff as the chairman determines is necessary to carry out the responsibilities of the Office.

(3) The primary responsibilities of the Office shall include:

(A) Providing information and guidance to Members, officers and employees of the House regarding any laws, rules, regulations, and other standards of conduct applicable to such individuals in their official capacities, and any interpretations and advisory opinions of the committee.

(B) Submitting to the chairman and ranking minority member of the committee any written request from any such Member, officer or employee for an interpretation of applicable laws, rules, regulations, or other standards of conduct, together with any recommendations thereon.

(C) Recommending to the committee for its consideration formal advisory opinions of general applicability.

(D) Developing and carrying out, subject to the approval of the chairman, periodic educational briefings for Members, officers and employees of the House on those laws, rules, regulations, or other standards of conduct applicable to them.

(4) No information provided to the Committee on Standards of Official Conduct by a Member, officer or employee of the House of Representatives when seeking advice regarding prospective conduct of such Member, officer or employee may be used as the basis for initiating an investigation under clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives, if such Member, officer or employee acts in accordance with the written advice of the committee.

2 USC 29d note.

(j) EFFECTIVE DATE.—This section shall take effect immediately before noon January 3, 1991, except that subsections (g), (h), and (i) shall take effect on January 1, 1990.

SEC. 804. ELIMINATION OF HONORARIA AND LIMITATIONS ON OUTSIDE EARNED INCOME AND EMPLOYMENT.

(a) HONORARIA AND OUTSIDE EARNED INCOME.—Clauses 1 and 2 of rule XLVII of the Rules of the House of Representatives are amended to read as follows:

"1. (a)(1) Except as provided by subparagraph (2), in calendar year 1991 or thereafter, a Member or an officer or employee of the House may not—

"(A) have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year; or

"(B) receive any honorarium.

"(2) In the case of any individual who becomes a Member or an officer or employee of the House during calendar year 1991 or thereafter, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member, officer, or employee during such calendar year and the denominator of which is 365.

"(3) In calendar year 1991 or thereafter, any payment in lieu of an honorarium which is made to a charitable organization on behalf of a Member, officer or employee of the House may not be received by such individual. No such payment shall exceed $2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

"(b)(1) Except as provided by subparagraph (2), in calendar year 1990, a Member may not have outside earned income (including honoraria received in such calendar year) attributable to such calendar year which exceeds 30 percent of the annual pay as a Member to which the Member was entitled in 1989.

"(2) In the case of any individual who becomes a Member during calendar year 1990, such individual may not have outside earned income (including honoraria) attributable to the portion of that calendar year which occurs after such individual becomes a Member which exceeds 30 percent of $89,500 multiplied by a fraction the numerator of which is the number of days such individual is a Member during such calendar year and the denominator of which is 365.".

(b) LIMITATIONS ON OUTSIDE EMPLOYMENT.—Rule XLVII of the Rules of the House of Representatives is amended by inserting after clause 1 the following new clause:

"2. On or after January 1, 1991, a Member or an officer or employee of the House shall not—

"(1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involves a fiduciary relationship for compensation;

"(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

"(3) practice a profession which involves a fiduciary relationship for compensation;

"(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

"(5) receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.".

(c) DEFINITIONS.—Clause 3 of rule XLVII is amended—

(1) by redesignating paragraphs (b) through (d) as paragraphs (c) through (e), respectively, and by inserting after paragraph (a) the following new paragraph:

"(b)(1) Except as provided by paragraph (2), the term 'officer or employee of the House' means any individual (other than a Member) whose pay is disbursed by the Clerk and who is paid at a rate equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code, and so employed for more than 90 days in a calendar year.

"(2) When used with respect to honoraria, the term 'officer or employee of the House' means any individual (other than a Member) whose salary is disbursed by the Clerk.";

(2) by striking paragraphs (c) and (d) (as redesignated) and by inserting the following:

"(c) The term 'honorarium' means a payment of money or any thing of value for an appearance, speech or article by a Member or an officer or employee of the House, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.

"(d) The term 'travel expenses' means, with respect to a Member or an officer or employee of the House, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.".

(3) in paragraph (e) (as redesignated)—

(A) by striking "professional fees, honorariums," and inserting "fees,";

(B) by striking "(other than copyright royalties)"; and

(C) by striking "and" at the end of subparagraph (3), by striking the period at the end of subparagraph (4) and inserting "; and", and by inserting after subparagraph (4) the following:

"(5) copyright royalties received from established publishers pursuant to usual and customary contractual terms."; and

(4) by inserting at the end the following:

"(f) The term 'charitable organization' means an organization described in section 170(c) of the Internal Revenue Code of 1986.".

(d) TITLE CHANGE.—The title of rule XLVII of the Rules of the House of Representatives is amended to read as follows: "LIMITATIONS ON OUTSIDE EMPLOYMENT AND EARNED INCOME.".

Effective date.

(e) CONFORMING AMENDMENT.—Effective January 1, 1991, clause 5 of rule XLIII of the Rules of the House of Representatives is amended by striking everything after "activity" and inserting a period.

(f) EFFECTIVE DATE.—Except as provided by subsection (e), the amendments made by this section shall take effect on January 1, 1990. The amendments made by this section shall cease to be effective if the provisions of section 703 are subsequently repealed, in which case the rules in effect before the amendments made by this section shall be deemed to be readopted.

SEC. 805. RESTRICTIONS ON REIMBURSABLE TRAVEL EXPENSES.

(a) RESTRICTIONS.—The Committee on Standards of Official Conduct of the House of Representatives shall amend its advisory opinions relating to the acceptance of necessary travel expenses incurred on or after January 1, 1990, in connection with speaking engagements and similar events to—

(1) prohibit the acceptance of such expenses for more than 4 consecutive days in the case of domestic travel and 7 consecutive days (excluding travel days) in the case of foreign travel; and

(2) permit the acceptance of travel expenses for the spouse or other family member in connection with any substantial participation event or fact-finding activity.

(b) EXEMPTION AUTHORITY.—The Committee on Standards of Official Conduct of the House of Representatives is authorized to grant prior written exemptions from the limitations contained in subsection (a)(1) in exceptional circumstances.

SEC. 806. EXERCISE OF RULEMAKING POWERS.

The provisions of this title are enacted by the Congress as an exercise of the rulemaking power of the House of Representatives and as such they shall be considered as part of the rules of the House and shall supersede other rules only to the extent they are inconsistent therewith; and with full recognition of the constitutional right of the House to change such rules (so far as relating to the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

TITLE IX—REGULATIONS RELATING TO THE SENATE

2 USC 31-2.

SEC. 901. GIFTS AND TRAVEL.

(a) GIFTS.—(1) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding $100 during a calendar year directly or indirectly from any person, organization, or corporation having a direct interest in legislation before the Congress or from any foreign national unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

(2) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding $300 during a calendar year from any person, organization, or corporation unless,

in an unusual case, a waiver is granted by the Select Committee on Ethics.

(3) In determining the aggregate value of any gift or gifts accepted by an individual during a calendar year from any person, organization, or corporation, there may be deducted the aggregate value of gifts (other than gifts described in paragraph (5)) given by such individual to such person, organization, or corporation during that calendar year.

(4) For purposes of this subsection, only the following shall be deemed to have a direct interest in legislation before the Congress:

(A) a person, organization, or corporation registered under the Federal Regulation of Lobbying Act of 1946, or any successor statute, a person who is an officer or director of such a registered lobbyist, or a person who has been employed or retained by such a registered lobbyist for the purpose of influencing legislation before the Congress; or

(B) a corporation, labor organization, or other organization which maintains a separate segregated fund for political purposes (within the meaning of section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b)), a person who is an officer or director of such corporation, labor organization, or other organization, or a person who has been employed or retained by such corporation, labor organization, or other organization for the purpose of influencing legislation before the Congress.

(5) The prohibitions of this subsection do not apply to gifts—

(A) from relatives;

(B) with a value of less than $75;

(C) of personal hospitality of an individual; or

(D) from an individual who is a foreign national if that individual is not acting; directly or indirectly, on behalf of a foreign corporation, partnership or business enterprise, a foreign trade, cultural, educational or other association, a foreign political party or a foreign government.

(6) For purposes of this subsection—

(A) the term "gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, (4) a bona fide award presented in recognition of public service and available to the general public, (5) a reception at which the Member, officer, or employee is to be honored, provided such individual receives no other gifts that exceed the restrictions in this rule, other than a suitable memento, (6) meals or beverages consumed or enjoyed, provided the meals or beverages are not consumed or enjoyed in connection with a gift of overnight lodging, or (7) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent; and

(B) the term "relative" has the same meaning given to such term in section 107(2) of title I of the Ethics in Government Act of 1978 (Public Law 95-521).

(7) If a Member, officer, or employee, after exercising reasonable diligence to obtain the information necessary to comply with this rule, unknowingly accepts a gift described in paragraph (1) such Member, officer, or employee shall, upon learning of the nature of the gift and its source, return the gift or, if it is not possible to return the gift, reimburse the donor for the value of the gift.

(8)(A) Notwithstanding the provisions of this subsection, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate is in the interests of the Senate and the United States.

(B) Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises to participate in any such program. The chairman of the Select Committee shall place in the Congressional Record a list of all individuals, participating, the supervisors of such individuals where applicable; and the nature and itinerary of such program.

(C) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (A) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

(b) Limits on Domestic and Foreign Travel by Members and Staff of the Senate.—The term "necessary expenses", with respect to limits on domestic and foreign travel by Members and staff of the Senate, means reasonable expenses for food, lodging, or transportation which are incurred by a Member, officer, or employee of the Senate in connection with services provided to (or participation in an event sponsored by) the organization which provides reimbursement for such expenses or which provides the food, lodging, or transportation directly. Necessary expenses do not include the provision of food, lodging, or transportation, or the payment for such expenses, for a continuous period in excess of 3 days (and 2 nights) exclusive of travel time within the United States or 7 days (and 6 nights) exclusive of travel time outside of the United States unless such travel is approved by the Committee on Ethics as necessary for participation in a conference, seminar, meeting or similar matter. Necessary expenses do not include the provision of food, lodging, or transportation, or the payment for such expenses, for anyone accompanying a Member, officer, or employee of the Senate, other than the spouse of a Member, officer, or employee of the Senate or one Senate employee acting as an aide to a Member.

5 USC app. 111 note.

SEC. 902. TRANSMITTAL OF FINANCIAL DISCLOSURE REPORTS.

(a) The Select Committee on Ethics shall transmit a copy of each report filed with it under title I of the Ethics in Government Act of 1978 (other than a report filed by a Member of Congress) to the head of the employing office of the individual filing the report.

(b) For purposes of this section, the head of the employing office shall be—

(A) in the case of an employee of a Member, the Member by whom that person is employed;

(B) in the case of an employee of a Committee, the chairman and ranking minority member of such Committee;

(C) in the case of an employee on the leadership staff, the Member of the leadership on whose staff such person serves; and

(D) in the case of any other employee of the legislative branch, the head of the office in which such individual serves.

SEC. 903. AMENDMENT TO SENATE CONFLICT OF INTEREST RULE.

2 USC 60-2.

(a) Except as provided by subsection (b), any employee of the Senate who is required to file a report pursuant to Senate rules shall refrain from participating personally and substantially as an employee of the Senate in any contact with any agency of the executive or judicial branch of Government with respect to non-legislative matters affecting any non-governmental person in which the employee has a significant financial interest.

(b) Subsection (a) shall not apply if an employee first advises his supervisor of his significant financial interest and obtains from such supervisor a written waiver stating that the participation of the employee is necessary. A copy of each such waiver shall be filed with the Select Committee.

TITLE X—RULEMAKING POWER OF THE CONGRESS

SEC. 1001. RULEMAKING POWER OF THE CONGRESS.

5 USC app. 101 note.

The provisions of this Act that are applicable to Members, officers, or employees of the legislative branch are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE XI—PAY AND HONORARIA ADJUSTMENTS

SEC. 1101. ADJUSTMENTS IN RATES OF PAY AND REDUCTION IN HONORARIUM OF SENATORS.

5 USC 5305 note.

(a)(1) Adjustments in Rates of Pay.—Notwithstanding any other provision of law (including any provision of this Act or amendment made by this Act), effective as provided in paragraph (2), the rate of pay of each office and position of United States Senator, the President pro tempore of the Senate, and the majority and minority leaders of the Senate shall be increased by—

(A) the percentage increase that would have taken effect in fiscal year 1988 if the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) were applied to the rate of pay of each such office and position in effect on January 1, 1988 without regard to section 108 of the resolution entitled "Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes", approved December 22, 1987 (101 Stat. 1329-434; 5 U.S.C. 5305 note);

(B) the percentage increase that would have taken effect in fiscal year 1989 if the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) were applied to the rate of pay of each such office and position in effect on January 1, 1989 (as adjusted under subparagraph (A) of this paragraph) without regard to subsection (b) of section 620 of the Treasury, Postal Service and General Government Appropriations Act, 1989 (Public Law 100-440; 102 Stat. 1756; 5 U.S.C. 5305 note); and

(C) the percentage increase that would take effect in fiscal year 1990 by the application of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) (as adjusted under subparagraphs (A) and (B) of this paragraph) without regard to subsection (b) of section 619 of the Treasury, Postal Service and General Government Appropriations Act, 1990 (Public Law 101-136).

(2) The increase in the rates of pay for each office and position described under paragraph (1) shall be effective on the first day of the first pay period beginning on or after January 1, 1990.

(b) Reduction of Honorarium.—Section 908(b) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding the provisions of this subsection—

"(A) the percentage referred to under paragraphs (1) and (2) shall be 27 percent as such paragraphs apply to United States Senators in the calendar year beginning on January 1, 1990;

"(B)(i) beginning on and after January 1, 1991, if the aggregate salary of a United States Senator is increased pursuant to section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)), section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), or any other provision of law, the percentage referred to under paragraphs (1) and (2) (with respect to United States Senators) shall be reduced by a percentage resulting in a dollar amount decrease in the limit of honorarium for each dollar amount of increase of such aggregate salary; and

"(ii) beginning on January 1 of the calendar year in which the adjustments under clause (i) of this subparagraph result in a limitation of accepting honoraria less than or equal to 1 percent of the aggregate salary paid to United States Senators for service as Senators in such calendar year, the acceptance of honoraria shall be prohibited, and thereafter no Senator shall accept honoraria.".

2 USC 31-1 note.

(c) Special Rule.—Notwithstanding any other provision of this section, no adjustment in any rate of pay and section 908(b)(4)(A) of the Supplemental Appropriations Act, 1983, as added by subsection (b) of this section, shall become effective, as a result of the enactment of

this section, before the first applicable pay period beginning on or after the date as of which the order issued by the President on October 16, 1989, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is rescinded.

Approved November 30, 1989.

LEGISLATIVE HISTORY—H.R. 3660:

CONGRESSIONAL RECORD, Vol. 135 (1989):

Nov. 16, considered and passed House.

Nov. 17, considered and passed Senate, amended. House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):

Nov. 30, Presidential statement.

○

PUBLIC LAW 101-195—DEC. 5, 1989

NEVADA WILDERNESS PROTECTION ACT OF 1989

39-139 O - 89 (195)

Public Law 101-195
101st Congress

An Act

Dec. 5, 1989
[S. 974]

To designate certain lands in the State of Nevada as wilderness, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nevada Wilderness Protection Act of 1989. Conservation.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nevada Wilderness Protection Act of 1989".

National Wilderness Preservation System. 16 USC 1132 note.

SEC. 2. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Nevada are designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Toiyabe National Forest, which comprise approximately 38,000 acres, as generally depicted on a map entitled "Alta Toquima Wilderness—Proposed", dated May, 1989, and which shall be known as the "Alta Toquima Wilderness";

(2) certain lands in the Toiyabe National Forest, which comprise approximately 115,000 acres, as generally depicted on a map entitled "Arc Dome Wilderness—Proposed", dated May, 1989, and which shall be known as the "Arc Dome Wilderness";

(3) certain lands in the Inyo National Forest, which comprise approximately 10,000 acres, as generally depicted on a map entitled "Boundary Peak Wilderness—Proposed", dated May, 1989, and which shall be known as the "Boundary Peak Wilderness";

(4) certain lands in the Humboldt National Forest, which comprise approximately 36,000 acres, as generally depicted on a map entitled "Currant Mountain Wilderness—Proposed", dated May, 1989, and which shall be known as the "Currant Mountain Wilderness";

(5) certain lands in the Humboldt National Forest, which comprise approximately 36,900 acres, as generally depicted on a map entitled "East Humboldts Wilderness—Proposed", dated May, 1989, and which shall be known as the "East Humboldts Wilderness";

(6) certain lands in the Humboldt National Forest, which comprise approximately 48,500 acres, as generally depicted on a map entitled "Jarbidge Wilderness Addition—Proposed", dated May, 1989, and which are hereby incorporated in, and shall be deemed to be a part of, the Jarbidge Wilderness as designated by section 3(a) of the Wilderness Act (16 U.S.C. 1132(a));

(7) certain lands in the Toiyabe National Forest, which comprise approximately 28,000 acres, as generally depicted on a map entitled "Mt. Rose Wilderness—Proposed", dated October, 1989, and which shall be known as the "Mt. Rose Wilderness";

(8) certain lands in the Humboldt National Forest, which comprise approximately 27,000 acres, as generally depicted on a map entitled "Quinn Canyon Wilderness—Proposed", dated May, 1989, and which shall be known as the "Quinn Canyon Wilderness";

(9) certain lands in the Humboldt National Forest, which comprise approximately 90,000 acres, as generally depicted on a map entitled "Ruby Mountains Wilderness—Proposed", dated September, 1989, and which shall be known as the "Ruby Mountains Wilderness";

(10) certain lands in the Toiyabe National Forest, which comprise approximately 43,000 acres, as generally depicted on a map entitled "Mt. Charleston Wilderness—Proposed", dated May, 1989, and which shall be known as the "Mt. Charleston Wilderness";

(11) certain lands in the Toiyabe National Forest, which comprise approximately 98,000 acres, as generally depicted on a map entitled "Table Mountain Wilderness—Proposed", dated May, 1989, and which shall be known as the "Table Mountain Wilderness";

(12) certain lands in the Humboldt National Forest, which comprise approximately 50,000 acres, as generally depicted on a map entitled "Grant Range Wilderness—Proposed", dated May, 1989, and which shall be known as the "Grant Range Wilderness";

(13) certain lands in the Humboldt National Forest, which comprise approximately 82,000 acres, as generally depicted on a map entitled "Mt. Moriah Wilderness—Proposed", dated May, 1989, and which shall be known as the "Mt Moriah Wilderness"; and

(14) certain lands in the Humboldt National Forest, which comprise approximately 31,000 acres, as generally depicted on a map entitled "Santa Rosa Wilderness—Proposed", dated May, 1989, and which shall be known as the "Santa Rosa-Paradise Peak Wilderness".

SEC. 3. MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture. Public information.

SEC. 4. ADMINISTRATION OF WILDERNESS.

Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by the Wilderness Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

Highways.

SEC. 5. WILDERNESS REVIEW CONCERNS.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Nevada and of the environmental impacts associated with alternative allocations of such areas.

(b) DETERMINATION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in the State of Nevada, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Nevada;

(2) with respect to—

(A) the National Forest System lands in the State of Nevada that were reviewed by the Department of Agriculture in the second roadless area review and evaluations (RARE II); and

(B) the lands described in subsection (d),

that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a 10-year cycle, or at least every 15 years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Nevada reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness in section 2 shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604): *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Nevada are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purposes of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600–1614) and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Nevada for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) Revisions.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), the term "revision" shall not include an "amendment" to a plan.

(d) Application of Section.—Lands identified by reference to this subsection are—

(1) National Forest System roadless lands in the State of Nevada of less than 5,000 acres; and

(2) Those National Forest System roadless areas, or portions thereof in the State of Nevada, identified in the unit plans listed below, which are not designated as wilderness in section 2:

National Forest	Unit plan
Humboldt	Santa Rosa
Humboldt	Ruby Mt./E. Humboldt
Toiyabe	Mt. Charleston
Toiyabe	Central Nevada

SEC. 6. GRAZING IN WILDERNESS AREAS.

(a) Livestock Grazing.—Grazing of livestock in wilderness areas designated in section 2 that was established prior to the date of enactment of this Act shall be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and section 108 of the Act entitled "An Act to designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes (16 U.S.C. 1133 note).

(b) Review.—The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in National Forest Wilderness areas in Nevada in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this Act.

(c) Reports.—Not later than 1 year after the enactment of this Act, and at least every 5 years thereafter, the Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report detailing the progress made by the Forest Service in carrying out the provisions of subsections (a) and (b).

SEC. 7. PROHIBITION OF BUFFER ZONES.

Congress does not intend that the designation of wilderness areas in the State of Nevada implies the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 8. WATER ALLOCATION AUTHORITY.

(a) Within the wilderness areas designated by this Act, there is hereby reserved a quantity of water sufficient to fulfill the purposes of the wilderness areas created by this Act.

(b) The priority date of the water rights reserved in paragraph (a) shall be the date of enactment of this Act.

Claims.

(c) The Secretary shall file a claim for the quantification of the water rights reserved in paragraph (a) in an appropriate stream adjudication and shall take all steps necessary to protect such rights in such an adjudication.

(d) The Federal water rights reserved by this Act shall be in addition to any water rights which may have been previously reserved or obtained by the United States for other than wilderness purposes.

(e) The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of Nevada designated by this Act. Nothing in this Act, nor in any legislative history accompanying this Act related to reserved Federal water rights, shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

SEC. 9. STATE FISH AND WILDLIFE AUTHORITY.

As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Nevada with respect to wildlife and fish in the national forests in Nevada.

SEC. 10. CLIMATOLOGICAL DATA COLLECTION.

Flood control.
Water.

Subject to such reasonable terms and conditions as the Secretary may prescribe, nothing in this Act or the Wilderness Act shall be construed to prevent, where appropriate, the installation and maintenance of hydrologic, meteorologic, or climatological collection devices within the wilderness areas or additions thereto designated by this Act, where such facilities and access thereto are essential to flood warning, flood control and water reservoir operation purposes.

SEC. 11. LOW ALTITUDE FLIGHT ACTIVITIES.

Nothing in this Act shall preclude low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over the Alta Toquima, Arc Dome, Currant Mountain or Table Mountain Wilderness areas.

Approved December 5, 1989.

LEGISLATIVE HISTORY—S. 974:

HOUSE REPORTS: No. 101-339, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-113 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Sept. 20, considered and passed Senate.
  Nov. 16, 17, considered and passed House, amended.
  Nov. 20, Senate concurred in House amendments with an amendment.
  Nov. 21, House concurred in Senate amendment.

○

Public Law 101-196
101st Congress

Joint Resolution

Dec. 5, 1989
[S.J. Res. 16]

Designating November 1989 and November 1990 as "National Alzheimer's Disease Month".

Whereas more than two and one-half million Americans are affected by Alzheimer's disease, which is a surprisingly common disorder that destroys certain vital cells of the brain;

Whereas Alzheimer's disease is the fourth leading cause of death among older Americans;

Whereas Alzheimer's disease is responsible for 45 per centum of all nursing home admissions, at an annual cost of more than $80,000,000,000;

Whereas in one-third of all American families one parent will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's Disease and recognition of national organizations such as the Alzheimer's Disease and Related Disorders Association and the American Health Assistance Foundation may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1989 and November 1990 are designated as "National Alzheimer's Disease Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such months with appropriate ceremonies and activities.

Approved December 5, 1989.

LEGISLATIVE HISTORY—S.J. Res. 16:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 3, considered and passed Senate.
Nov. 7, considered and passed House, amended.
Nov. 21, Senate concurred in House amendments.

O

Public Law 101-197
101st Congress

Joint Resolution

Designating December 3 through 9, 1989, as "National Cities Fight Back Against Drugs Week".

Dec. 5, 1989
[S.J. Res. 205]

Whereas the presence of drugs and narcotics in our society has resulted in innumerable problems of human, community, social, and economic dimensions;

Whereas the dissolution of the family, inadequate education system, poverty, unemployment, and greed all contribute to illegal drug use;

Whereas the consequences of drug-related problems are witnessed in the loss of human lives, the loss of economic productivity, and the diversion of public resources to address these problems on all fronts;

Whereas the demand for illegal drugs is a pervasive problem that affects all segments of our society, including professional and affluent people;

Whereas illegal drugs plague urban, suburban, and rural communities of all sizes and regions;

Whereas illegal drugs constitute a problem in our community and lead to a host of problems such as homicide, robbery, burglary, and other crimes and domestic violence;

Whereas a national response is needed to curtail the importation, trafficking, sale, and abuse of drugs;

Whereas our Nation's cities and towns carry the heaviest burden in confronting the Nation's drug problem;

Whereas hundreds of America's dedicated public servants have died and thousands of others risk their lives daily in our cities' individual battles against illegal drugs and in the criminal activities stemming from illegal drugs; and

Whereas the National League of Cities has called on the President and the Congress to join in a partnership in fighting drugs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 3 through 9, 1989, is designated as "National Cities Fight Back Against Drugs Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved December 5, 1989.

LEGISLATIVE HISTORY—S.J. Res. 205:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 17, considered and passed Senate.
Nov. 21, considered and passed House.

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Public Law 101-198
101st Congress

Joint Resolution

Dec. 6, 1989
[H.J. Res. 448]

Making supplemental appropriations for the fiscal year 1990, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year 1990, and for other purposes, namely:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Assistant Secretary for Human Development Services

SOCIAL SERVICES BLOCK GRANT

For an additional amount for carrying out the Social Services Block Grant Act, $100,000,000: *Provided,* That this amount shall only become available if specifically authorized in law.

Approved December 6, 1989.

LEGISLATIVE HISTORY—H.J. Res. 448:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 21, considered and passed House and Senate.

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Public Law 101-199
101st Congress

An Act

To designate the building located at 2562 Hylan Boulevard, Staten Island, New York, as the "Walter Edward Grady United States Post Office Building".

Dec. 6, 1989
[H.R. 481]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 2562 Hylan Boulevard, Staten Island, New York, known as the New Dorp Station, is designated as the "Walter Edward Grady United States Post Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the Walter Edward Grady United States Post Office Building.

Approved December 6, 1989.

LEGISLATIVE HISTORY—H.R. 481:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 2, considered and passed House.
Nov. 21, considered and passed Senate.

Public Law 101-200
101st Congress

An Act

Dec. 6, 1989
[H.R. 3294]

To authorize distribution within the United States of the United States Information Agency film entitled "A Tribute to Mickey Leland".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF THE UNITED STATES INFORMATION AGENCY FILM ENTITLED "A TRIBUTE TO MICKEY LELAND".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "A Tribute to Mickey Leland"; and

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reservation.

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) deposit that film in the National Archives of the United States; and

(B) make copies of that film available for purchase and public viewing within the United States.

Approved December 6, 1989.

LEGISLATIVE HISTORY—H.R. 3294:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 16, considered and passed House.
Nov. 21, considered and passed Senate.

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Public Law 101-201
101st Congress

An Act

To exclude Agent Orange settlement payments from countable income and resources under Federal means-tested programs.

Dec. 6, 1989
[S. 892]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AGENT ORANGE SETTLEMENT PAYMENTS EXCLUDED FROM COUNTABLE INCOME AND RESOURCES UNDER FEDERAL MEANS-TESTED PROGRAMS.

(a) In General.—That none of the payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.), shall be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.

(b) Effective Date.—The provision in subsection (a) shall become effective January 1, 1989.

Approved December 6, 1989.

LEGISLATIVE HISTORY—S. 892 (H.R. 1129):

HOUSE REPORTS: No. 101-373 accompanying H.R. 1129 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 8, considered and passed Senate.
Nov. 17, H.R. 1129, considered and passed House; proceedings vacated and S. 892, amended, passed in lieu.
Nov. 20, Senate concurred in House amendment.

○

39-139 0 - 89 (201)

PUBLIC LAW 101-202—DEC. 6, 1989

AUTHORIZING THE FOOD STAMP PORTION OF THE MINNESOTA FAMILY INVESTMENT PLAN

39-139 O - 89 - (202)

Public Law 101-202
101st Congress

An Act

Dec. 6, 1989
[S. 1960]

To authorize the food stamp portion of the Minnesota Family Investment Plan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding the following new section:

7 USC 2031.

"SEC. 22. (a) IN GENERAL.—

"(1) Subject to paragraph (2), upon written application of the State of Minnesota that complies with this section and sections 6 to 11, 13, 130, and 132 of article 5 of 282 of the 1989 Laws of Minnesota, and after approval of such application by the Secretary in accordance with subsections (b) and (d), the State may implement a family investment demonstration project (hereinafter in this section referred to as the 'Project') in parts of the State to determine whether the Project more effectively helps families to become self-supporting and enhances their ability to care for their children than do the food stamp program and programs under parts A and F of title IV of the Social Security Act. The State may provide cash payments under the Project, subject to paragraph (2), that replace assistance otherwise available under the food stamp program and under part A of title IV of the Social Security Act.

"(2) The Project may be implemented only in accordance with this section and only if the Secretary of Health and Human Services approves an application submitted by the State permitting the State to include in the Project families who are eligible to receive benefits under part A of title IV of the Social Security Act.

"(b) REQUIRED TERMS AND CONDITIONS OF THE PROJECT.—The application submitted by the State under subsection (a) shall provide an assurance that the Project shall satisfy all of the following requirements:

"(1) Only families may be eligible to receive assistance and services through the Project.

"(2) Participating families, families eligible for or participating in the program authorized under part A of title IV of the Social Security Act or the food stamp program that are assigned to and found eligible for the Project, and families required to submit an application for the Project that are found eligible for the Project shall be ineligible to receive benefits under the food stamp program.

"(3)(A) Subject to the provisions of this paragraph and any reduction imposed under subsection (c)(3) of this section, the value of assistance provided to participating families shall not be less than the aggregate value of the assistance such families could receive under the food stamp program and part A of title IV of the Social Security Act if such families did not participate in the Project.

"(B) For purposes of satisfying the requirement specified in subparagraph (A)—

Children and youth.

"(i) payments for child care expenses under the Project shall be considered part of the value of assistance provided to participating families with earnings;

"(ii) payments for child care expenses for families without earnings shall not be considered part of the value of assistance provided to participating families or the aggregate value of assistance that such families could have received under the food stamp program and part A of title IV of the Social Security Act; and

"(iii) any child support payments not assigned to the State under the provisions of part A of title IV of the Social Security Act, less $50 per month, shall be considered part of the aggregate value of assistance participating families would receive if such families did not participate in the Project;

"(C) For purposes of satisfying the requirement specified in subparagraph (A), the State shall—

"(i) identify the sets of characteristics indicative of families that might receive less assistance under the Project;

"(ii) establish a mechanism to determine, for each participating family that has a set of characteristics identified under clause (i) whether such family could receive more assistance, in the aggregate, under the food stamp program and part A of title IV of the Social Security Act if such family did not participate in the project;

"(iii) increase the amount of assistance provided under the Project to any family that could receive more assistance, in the aggregate, under the food stamp program and part A of title IV of the Social Security Act if such family did not participate in the Project, so that the assistance provided under the Project to such family is not less than the aggregate amount of assistance such family could receive under the food stamp program and part A of title IV of the Social Security Act if such family did not participate in the Project; and

"(iv) increase the amount of assistance paid to participating families, if the State or locality imposes a sales tax on food, by the amount needed to compensate for the tax.

This subparagraph shall not be construed to require the State to make the determination under clause (ii) for families that do not have a set of characteristics identified under clause (i).

"(D)(i) The State shall designate standardized amounts of assistance provided as food assistance under the Project and notify monthly each participating family of such designated amount.

"(ii) The amount of food assistance so designated shall be at least the value of coupons such family could have received under the food stamp program if the Project had not been implemented. The provisions of this subparagraph shall not require that the State make individual determinations as to the amount of assistance under the Project designated as food assistance.

"(iii) The State shall periodically allow participating families the option to receive such food assistance in the form of coupons.

"(E)(i) Individuals ineligible for the Project who are members of a household including a participating family shall have their eligibility for the food stamp program determined and have their benefits calculated and issued following the standards established under the food stamp program, except as provided differently in this subparagraph.

"(ii) The State agency shall determine such individuals' eligibility for benefits under the food stamp program and the amount of such benefits without regard to the participating family.

"(iii) In computing such individuals' income for purposes of determining eligibility (under section 5(c)(1)) and benefits, the State agency shall apply the maximum excess shelter expense deduction specified under section 5(e).

"(iv) Such individuals' monthly allotment shall be the higher of $10 or 75 percent of the amount calculated following the standards of the food stamp program and the foregoing requirements of this subparagraph, rounded to the nearest lower whole dollar.

Education.
Employment and unemployment.

"(4) The Project shall include education, employment, and training services equivalent to those offered under the employment and training program described in section 6(d)(4) to families similar to participating families elsewhere in the State.

"(5) The State may select families for participation in the Project through submission and approval of an application for participation in the Project or by assigning to the Project families that are determined eligible for or are participating in the program authorized by part A of title IV of the Social Security Act or the food stamp program.

"(6) Whenever selection for participation in the Project is accomplished through submission and approval of an application for the Project—

"(A) the State shall promptly determine eligibility for the Project, and issue assistance to eligible families, retroactive to the date of application, not later than thirty days following the family's filing of an application;

"(B) in the case of families determined ineligible for the Project upon application, the application for the Project shall be deemed an application for the food stamp program, and benefits under the food stamp program shall be issued to those found eligible following the standards established under the food stamp program;

"(C) expedited benefits shall be provided under terms no more restrictive than under paragraph (9) of section 11(e) and the laws of Minnesota and shall include expedited issuance of designated food assistance provided through the Project or expedited benefits through the food stamp program;

"(D) each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to receive financial assistance shall receive and shall be permitted to file an application form on the same day such contact is first made;

Communications and telecommunications.
Mail.
Aged persons.
Handicapped persons.

"(E) provision shall be made for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, elderly individuals, physically or mentally handicapped individuals, and individuals otherwise unable to appear in person solely because of transportation difficulties and similar hardships;

"(F) a family may be represented by another person if the other person has clearly been designated as the representative of such family for that purpose and the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(i) restrict the number of families who may be represented by such person; and

"(ii) otherwise establish criteria and verification standards for representation under this subparagraph; and

Homeless persons.

"(G) the State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing assistance under the Project to, families that do not reside in permanent dwellings or who have no fixed mailing address.

"(7) Whenever selection for participation in the Project is accomplished by assigning families that are determined eligible for or participating in the program authorized by part A of title IV of the Social Security Act or the food stamp program—

"(A) the State shall provide eligible families assistance under the Project no later than benefits would have been provided following the standards established under the food stamp program; and

"(B) the State shall ensure that assistance under the Project is provided so that there is no interruption in benefits for families participating in the program under part A of title IV of the Social Security Act or the food stamp program.

"(8) Paragraphs (1)(B) and (8) of section 11(e) shall apply with respect to applicants and participating families in the same manner as such paragraphs apply with respect to applicants and participants in the food stamp program.

"(9) Assistance provided under the Project shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for the same period.

"(10)(A) The State shall provide each family or family member whose participation in the Project ends and each family whose participation is terminated with notice of the existence of the food stamp program and the person or agency to contact for more information.

"(B)(i) Following the standards specified in subparagraph (C), the State shall ensure that benefits under the food stamp program are provided to participating families in case the Project is terminated or to participating families or family members that are determined ineligible for the Project because of income, resources, or change in household composition, if such families or individuals are determined eligible for the food stamp program. Food coupons shall be issued to eligible families and individuals described in this clause retroactive to the date of termination from the Project; and

"(ii) If sections 256.031 through 256.036 of the Minnesota Statutes, 1989 Supplement, or Minnesota Laws 1989, chapter 282, article 5, section 130, are amended to reduce or eliminate benefits provided under those sections or restrict the rights of

Project applicants or participating families, the State shall exclude from the Project applicants or participating families or individuals affected by such amendments and follow the standards specified in subparagraph (C), except that the State shall continue to pay from State funds an amount equal to the food assistance portion to such families and individuals until the State determines eligibility or ineligibility for the food stamp program or the family or individual has failed to supply the needed additional information within ten days. Food coupons shall be provided to families and individuals excluded from the Project under this clause who are determined eligible for the food stamp program retroactive to the date of the determination of eligibility. The Secretary shall pay to the State the value of the food coupons for which such families and individuals would have been eligible in the absence of food assistance payments under this clause from the date of termination from the Project to the date food coupons are provided.

"(C) Each family whose Project participation is terminated shall be screened for potential eligibility for the food stamp program and if the screening indicates potential eligibility, the family or family member shall be given a specific request to supply all additional information needed to determine such eligibility and assistance in completing a signed food stamp program application including provision of any relevant information obtained by the State for purpose of the Project. If the family or family member supplies such additional information within ten days after receiving the request, the State shall, within five days after the State receives such information, determine whether the family or family member is eligible for the food stamp program. Each family or family member who is determined through the screening or otherwise to be ineligible for the food stamp program shall be notified of that determination.

"(11) Section 11(e)(10) shall apply with respect to applicant and participating families in the same manner as such paragraph applies with respect to applicants and participants in the food stamp program, except that families shall be given notice of any action for which a hearing is available in a manner consistent with the notice requirements of the regulations implementing sections 402(a)(4) and 482(h) of the Social Security Act.

"(12) For each fiscal year, the Secretary shall not be liable for any costs related to carrying out the Project in excess of those that the Secretary would have been liable for had the Project not been implemented, except for costs for evaluating the Project, but shall adjust for the full amount of the federal share of increases or decreases in costs that result from changes in economic, demographic, and other conditions in the State based on data specific to the State, changes in eligibility or benefit levels authorized by the Food Stamp Act, as amended, or changes in amounts of Federal funds available to States and localities under the food stamp program.

"(13) The State shall carry out the food stamp program throughout the State while the State carries out the Project.

"(14)(A) Except as provided in subparagraph (B), the State will carry out the Project during a five-year period beginning on the date the first family receives assistance under the Project.

"(B) The Project may be terminated—

"(i) by the State one hundred and eighty days after the State gives notice to the Secretary that it intends to terminate the Project;

"(ii) by the Secretary one hundred and eighty days after the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section; or

"(iii) whenever the State and the Secretary jointly agree to terminate the Project.

"(15) Not more than six thousand families may participate in the Project simultaneously.

"(c) ADDITIONAL TERMS AND CONDITIONS OF THE PROJECT.—The Project shall be subject to the following additional terms and conditions:

"(1) The State may require any parent in a participating family to participate in education, employment, or training requirements unless the individual is a parent in a family with one parent who—

"(A) is ill, incapacitated, or sixty years of age or older;

"(B) is needed in the home because of the illness or incapacity of another family member;

"(C) is the parent of a child under one year of age and is personally providing care for the child;

"(D) is the parent of a child under six years of age and is employed or participating in education or employment and training services for twenty or more hours a week;

"(E) works thirty or more hours a week or, if the number of hours worked cannot be verified, earns at least the Federal minimum hourly wage rate multiplied by thirty per week; or

"(F) is in the second or third trimester of pregnancy.

"(2) The State shall not require any parent of a child under six years of age in a participating family with only one parent to be employed or participate in education or employment and training services for more than twenty hours a week.

"(3) For any period during which an individual required to participate in education, employment, or training requirements fails to comply without good cause with a requirement imposed by the State under paragraph (1), the amount of assistance to the family under the Project may be reduced by an amount not more than 10 percent of the assistance the family would be eligible for with no income other than that from the Project.

"(d) FUNDING.—

"(1) If an application submitted under subsection (a) complies with the requirements specified in subsection (b), then the Secretary shall—

"(A) approve such application; and

"(B) subject to subsection (b)(12) from the funds appropriated under this Act provide grant awards and pay the State each calendar quarter for—

"(i) the cost of food assistance provided under the Project equal to the amount that would have otherwise been issued in the form of coupons under the food stamp program had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State; and "(ii) the administrative costs incurred by the State to provide food assistance under the Project that are authorized under subsections (a), (g), (h)(2), and (h)(3) of section 16 equal to the amount that otherwise would have been paid under such subsections had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State: *Provided*, That payments made under subsection (g) of section 16 shall equal payments that would have been made if the Project had not been implemented.

"(2) The Secretary shall periodically adjust payments made to the State under paragraph (1) to reflect—

"(A) the cost of coupons issued to individuals ineligible for the Project specified in subsection (b)(3)(E) in excess of the amount that would have been issued to such individuals had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State; and

"(B) the cost of coupons issued to families exercising the option specified in paragraph (b)(3)(D)(iii) in excess of the amount that would have been issued to such individuals had the Project not been implemented, as estimated under a methodology satisfactory to the Secretary after negotiations with the State.

"(3) Payments under paragraph (1)(B) shall include adjustments, as estimated under a methodology satisfactory to the Secretary after negotiations with the State, for increases or decreases in the costs of providing food assistance and associated administrative costs that result from changes in economic, demographic, or other conditions in the State based on data specific to the State, changes in eligibility or benefit levels authorized by the Food Stamp Act, as amended, and changes in or additional amounts of Federal funds available to States and localities under the food stamp program.

"(e) WAIVER.—With respect to the Project, the Secretary shall waive compliance with any requirement contained in this Act (other than this section) that, if applied, would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) PROJECT AUDITS.—The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (d); and

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"(2) submit to the Secretary, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(g) CONSTRUCTION.—(1) For purposes of any Federal, State, or local law other than part A of title IV of the Social Security Act or the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.)—

"(A) cash assistance provided under the Project that is designated as food assistance by the State shall be treated in the same manner as coupon allotments under the food stamp program are treated; and

"(B) participating families shall be treated in the same manner as participants in the food stamp program are treated.

"(2) Nothing in this section shall—

"(A) allow payments made to the State under the Project to be less than the amounts the State and eligible households within the State would have received if the Project had not been implemented; or

"(B) require the Secretary to incur costs as a result of the Project in excess of costs that would have been incurred if the Project had not been implemented, except for costs for evaluation.

"(h) Quality Control.—Participating families shall be excluded from any sample taken for purposes of making any determination under section 16(c). For purposes of establishing the total value of allotments under section 16(c)(1)(C), food coupons and the amount of federal liability for food assistance provided under the Project as limited by subsection b(12) of this section shall be treated as allotments issued under the food stamp program. Payments for administrative costs incurred by the State shall be included for purposes of establishing the adjustment under section 16(c)(1)(A).

"(i) Evaluation.—(1) The State shall develop and implement a plan for an independent evaluation designed to provide reliable information on Project impacts and implementation. The evaluation will include treatment and control groups and will include random assignment of families to treatment and control groups in an urban setting. The evaluation plan shall satisfy the evaluation concerns of the Secretary of Agriculture such as effects on benefits to participants, costs of the Project, payment accuracy, administrative consequences, any reduction in welfare dependency, any reduction in total assistance payments, and the consequences of cash payments on household expenditures, and food consumption. The evaluation plan shall take into consideration the evaluation requirements and administrative obligations of the State. The evaluation will measure the effects of the Project in regard to goals of increasing family income, prevention of long-term dependency, movement toward self-support, and simplification of the welfare system.

"(2) The State shall pay 50 percent of the cost of developing and implementing such plan and the Federal Government shall pay the remainder.

"(j) Definitions.—For purposes of this section, the following definitions apply:

"(1) The term 'family' means the following individuals who live together: a minor child or a group of minor children related to each other as siblings, half siblings, stepsiblings, or adopted siblings, together with their natural or adoptive parents, or their caregiver. Family also includes a pregnant woman in the third trimester of pregnancy with no children.

"(2) The term 'contract' means a plan to help a family pursue self-sufficiency, based on the State's assessment of the family's needs and abilities and developed with a parental caregiver.

"(3) The term 'caregiver' means a minor child's natural or adoptive parent or parents who live in the home with the minor child. For purposes of determining eligibility for the Project, 'caregiver' also means any of the following individuals who live with and provide care and support to a minor child when the minor child's natural or adoptive parent or parents do not reside in the same home: grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle aunt, first cousin, nephew, niece, persons of preceding generations as denoted by prefixes of 'great' or 'great-great' or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

"(4) The term 'State' means the State of Minnesota.".

Approved December 6, 1989.

LEGISLATIVE HISTORY—S. 1960:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 21, considered and passed Senate and House.

Public Law 101-203
101st Congress

An Act

To amend section 3724 of title 31, United States Code, to increase the authority of the Attorney General to settle claims for damages resulting from law enforcement activities of the Department of Justice.

Dec. 7, 1989
[H.R. 972]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO SETTLE CLAIMS.

(a) Increased Authority.—Section 3724 of title 31, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "$500" and inserting in lieu thereof "$50,000"; and

(B) by striking out "the Director" and all that follows through "Investigation" and inserting in lieu thereof "an investigative or law enforcement officer as defined in section 2680(h) of title 28 who is employed by the Department of Justice"; and

(2) in subsection (b) by striking out "The Attorney General" in the first sentence and all that follows through "The" in the second sentence and inserting in lieu thereof the following: "The Attorney General shall report annually to the Congress on all settlements made under this section. With respect to each such settlement, the".

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(b) Conforming Amendments.—

(1) The section heading for section 3724 of title 31, United States Code, is amended to read as follows:

"§ 3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice".

(2) The item relating to section 3724 in the table of sections at the beginning of chapter 37 of title 31, United States Code, is amended to read as follows:

"3724. Claims for damages caused by investigative or law enforcement officers of the Department of Justice.".

SEC. 2. EFFECTIVE DATE.

31 USC 3724 note.

The amendments made by section 1 shall apply to—

(1) any claim arising on or after the date of the enactment of this Act,

(2) any claim pending on such date, and

(3) any claim arising before such date which has not been settled if the time for presenting the claim to the Attorney General under the last sentence of section 3724(a) of title 31, United States Code, has not expired.

Approved December 7, 1989.

LEGISLATIVE HISTORY—H.R. 972 (S. 604):

HOUSE REPORTS: No. 101-46 (Comm. on the Judiciary).
ENATE REPORTS: No. 101-163 accompanying S. 604 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 135 (1989):
- May 9, considered and passed House.
- Oct. 27, considered and passed Senate, amended. S. 604 considered and passed Senate.
- Nov. 17, House concurred in Senate amendment with an amendment.
- Nov. 20, Senate concurred in House amendment.

○

PUBLIC LAW 101-204—DEC. 7, 1989

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1989

39-139 O - 89 (204)

Public Law 101-204
101st Congress

An Act

Dec. 7, 1989
[H.R. 1312]

To revise and extend the programs of the Domestic Volunteer Service Act of 1973.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Domestic Volunteer Service Act Amendments of 1989.
42 USC 4950 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Domestic Volunteer Service Act Amendments of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Domestic Volunteer Service Act of 1973.

TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

Sec. 101. Selection and assignment of volunteers.
Sec. 102. Support services.
Sec. 103. Applications for assistance by previous recipients.

TITLE II—SERVICE-LEARNING PROGRAMS

Sec. 201. Change in general reference to programs.

TITLE III—SPECIAL VOLUNTEER PROGRAMS

Sec. 301. Authority to establish and operate programs.
Sec. 302. Special initiatives.

TITLE IV—ADMINISTRATION AND COORDINATION

Sec. 401. Reports.
Sec. 402. Evaluation.
Sec. 403. Definitions.

TITLE V—OLDER AMERICAN VOLUNTEER PROGRAMS

Sec. 501. Purposes.
Sec. 502. Programs of national significance.
Sec. 503. Increase in stipend or allowance.
Sec. 504. Volunteers serving without stipends.
Sec. 505. Promotion of programs.
Sec. 506. Administrative costs.
Sec. 507. Multiyear grants or contracts.

TITLE VI—LITERACY

Sec. 601. VISTA Literacy Corps.
Sec. 602. Technical and financial assistance for improvement of volunteer programs.
Sec. 603. Special initiatives.

TITLE VII—GENERAL PROVISIONS

Sec. 701. Assignment of volunteers to health care problems.
Sec. 702. Oath or affirmation.
Sec. 703. Limitation on funds appropriated for grants and contracts.
Sec. 704. Administrative organization.
Sec. 705. Amendments relating to demonstration partnership agreements addressing the needs of the poor.

TITLE VIII—AUTHORIZATION OF APPROPRIATIONS

Sec. 801. National volunteer antipoverty programs authorization.
Sec. 802. Priority.
Sec. 803. Administration and coordination.

Sec. 804. Older American volunteer programs.

TITLE IX—TECHNICAL AMENDMENTS

Sec. 901. Amendments to table of contents.
Sec. 902. Technical amendments.

TITLE X—TECHNICAL AMENDMENTS TO OTHER LAWS

Sec. 1001. Technical amendments to the Anti-Drug Abuse Act of 1988.
Sec. 1002. Technical amendment to the Juvenile Justice and Delinquency Prevention Act of 1974.
Sec. 1003. Technical amendments to the Runaway and Homeless Youth Act.
Sec. 1004. Technical amendments to the Missing Children's Assistance Act.

SEC. 2. REFERENCES TO THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.).

TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 101. SELECTION AND ASSIGNMENT OF VOLUNTEERS.

(a) Recruitment and Placement Procedures.—Subsection (b) of section 103 (42 U.S.C. 4953(b)) is amended to read as follows:

"(b)(1) The Director shall establish recruitment and placement procedures that offer opportunities for both local and national placement of volunteers for service under this part.

"(2)(A) The Director shall establish and maintain within the national headquarters of the ACTION Agency a volunteer placement office. The office shall be headed by an individual designated by the Director to be the national Administrator of Recruitment and Placement, who shall be responsible for carrying out the functions described in this subsection and subsection (c) and all other functions delegated by the Director relating to the recruitment and placement of volunteers under this part.

"(B) Such volunteer placement office shall develop, operate, and maintain a current and comprehensive central information system that shall, on request, promptly provide information—

"(i) to individuals, with respect to specific opportunities for service as a volunteer with approved projects or programs to which no volunteer has been assigned; and

"(ii) to approved projects or programs, with respect to the availability of individuals whose applications for service as a volunteer have been approved and who are awaiting an assignment with a specific project or program.

"(C) The Director shall, at a minimum, designate one employee of the ACTION Agency in each region of the United States whose primary duties and responsibilities shall be to assist the Administrator in carrying out the functions described in this subsection and subsection (c).

"(D) The Director shall assign or hire as necessary, such additional national, regional, and State personnel to carry out the functions described in this subsection and subsection (c) as may be necessary to ensure that such functions are carried out in a timely and effective manner. The Director shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers under this part and to individuals who have specialized experience in the recruitment of volunteers.

"(3) Volunteers shall be selected from among qualified individuals submitting an application for such service at such time, in such form, and containing such information as may be necessary to evaluate the suitability of each individual for such service and to determine, in accordance with paragraph (7), the most appropriate assignment for each such volunteer. The Director shall approve the application of each individual who applies in conformance with this subsection and who, on the basis of the information provided in the application, is determined by the Director to be qualified to serve as a volunteer under this part.

"(4) Each application for service as a volunteer under this part shall—

"(A) indicate the period of time during which the applicant is available to serve as a volunteer under this part;

"(B) describe the previous education, training, military and work experience, and any other relevant skills or interests of the applicant;

"(C) specify the State or geographic region in which the applicant prefers to be assigned; and

"(D) specify—

"(i) the type of project or program to which the applicant prefers to be assigned; or

"(ii) the particular project or program to which the applicant prefers to be assigned.

"(5) The Director shall ensure that applications for service as a volunteer under this part are available to the public on request to the ACTION Agency (including any State or regional offices of the Agency) and that an individual making such request is informed of the manner in which such application is required to be submitted. A completed application may be submitted by any interested individual to, and shall be accepted by, any office of the ACTION Agency.

"(6) Completed applications received by the ACTION Agency shall be forwarded to the regional ACTION office representing the State in which such applicant resides. The regional or State employees designated in subparagraphs (C) and (D) of paragraph (2) shall assist in evaluating such applications and, to the extent feasible and appropriate, interviewing applicants.

"(7)(A) The Director shall provide for the assignment of each applicant approved as a volunteer under this part to a project or program that is, to the maximum extent practicable, consistent with the abilities, experiences, and preferences of such applicant that are set forth in the application described in paragraph (4) and the needs and preferences of projects or programs approved for the assignment of such volunteers.

"(B) In carrying out subparagraph (A), the Director shall utilize the information system established under paragraph (2)(B).

"(C) A sponsoring organization of VISTA may recruit volunteers for service under this part. The Director shall give a locally recruited volunteer priority for placement in the sponsoring organization of VISTA that recruited such volunteer.

"(D) A volunteer under this part shall not be assigned to any project or program without the express approval and consent of such project or program.

"(E) If an applicant under this part who is recruited locally becomes unavailable for service prior to the commencement of service, the recipient of the project grant or contract that was designated to receive the services of such applicant may replace such applicant with another qualified applicant approved by the Director.

"(F) If feasible and appropriate, low-income community volunteers shall be given the option of serving in the home communities of such volunteers in teams with nationally recruited specialist volunteers. The Director shall attempt to assign such volunteers to serve in the home or nearby communities of such volunteers and shall make national efforts to attract other individuals to serve in the VISTA program. The Director shall also, in the assignment of volunteers under this subparagraph, recognize that community-identified needs that cannot be met in the local area and the individual desires of VISTA volunteers in regard to the service in various geographical areas of the United States should be taken into consideration.".

(b) PUBLIC AWARENESS AND RECRUITMENT.—Section 103 (42 U.S.C. 4953) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) The Director, in conjunction with the regional or State employees designated in subparagraphs (C) and (D) of subsection (b)(2), shall engage in public awareness and recruitment activities. Such activities shall include—

"(A) public service announcements through radio, television, and the print media;

"(B) advertising through the print media, direct mail, and other means;

"(C) disseminating information about opportunities for service as a volunteer under this part to relevant entities including institutions of higher education and other educational institutions (including libraries), professional associations, community-based agencies, youth service and volunteer organizations, business organizations, labor unions, senior citizens organizations, and other institutions and organizations from or through which potential volunteers may be recruited;

"(D) disseminating such information through presentations made personally by employees of the ACTION Agency or other designees of the Director, to students and faculty at institutions of higher education and to other entities described in subparagraph (C), including presentations made at the facilities, conventions, or other meetings of such entities;

"(E) publicizing the student loan deferment and forgiveness opportunities available to VISTA volunteers under parts B and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) and including such information in all applications and recruitment materials;

"(F) providing, on request, technical assistance with the recruitment of volunteers under this part to programs and projects receiving assistance under this part; and

"(G) maintaining and publicizing a national toll-free telephone number through which individuals may obtain information about opportunities for service as a volunteer under this part and request and receive an application for such service.

"(2) In designing and implementing the activities authorized under this section, the Director shall seek to involve individuals who have formerly served as volunteers under this part to assist in the dissemination of information concerning the program established under this part. The Director may reimburse the costs incurred by such former volunteers for such participation, including expenses incurred for travel.

"(3) The Director shall consult with the Director of the Peace Corps to coordinate the recruitment and public awareness activities carried out under this subsection with those of the Peace Corps and to develop joint procedures and activities for the recruitment of volunteers to serve under this part.

"(4) At the beginning of each fiscal year, the Director shall develop an annual plan for the recruitment of volunteers under this part that—

"(A) describes in detail (including the cost) the recruitment and public awareness activities carried out during the preceding fiscal year and evaluates the effectiveness of such activities;

"(B) identifies methods and goals for the recruitment of volunteers during the fiscal year in which such plan is made, including specific methods and goals for the recruitment of individuals 55 years of age and older, individuals 18 through 27 years of age, recent graduates of institutions of higher education, and special skilled volunteers; and

"(C) describes in detail (including the expected cost) the recruitment and public awareness activities that shall be undertaken throughout the year to achieve the goals specified in subparagraph (B); and

"(D) describes in detail (including the expected cost) the recruitment and public awareness activities that shall be undertaken throughout the year to achieve the goals for the recruitment of individuals described in subparagraph (B).

"(5) The Director shall ensure that not less than 20 percent of all volunteers under this part are 55 years of age or older and that, by the beginning of fiscal year 1991 and for each fiscal year thereafter, not less than 20 percent of all such volunteers are between 18 and 27 years of age, (inclusive).

"(6) Beginning in fiscal year 1991 and for each fiscal year thereafter, for the purpose of carrying out this subsection, the Director shall obligate not less than 1.5 percent of the amounts appropriated for each fiscal year under section 501(a).".

42 USC 4954 note.

(c) TEMPORARY AUTHORITY FOR EXTENSIONS OF PERIOD OF SERVICE.—

(1) IN GENERAL.—Notwithstanding the limitations established in section 104(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4954(b)) for the maximum period of service as a volunteer under part A of title I of such Act (42 U.S.C. 4951 et seq.), the Director of the ACTION Agency may, subject to paragraphs (2) and (3), extend beyond such maximum the period of service for such volunteer in any case in which—

(A) such extension is requested by the project or program to which such volunteer involved is assigned; and

(B) such Director determines that such extension is appropriate with respect to meeting the goals of such project or program.

(2) Limitations on extensions.—With respect to extensions under paragraph (1) for volunteers described in such paragraph—

(A) such an extension shall not exceed a 1-year period;

(B) not more than two of such extensions may be made for any one volunteer; and

(C) not more than 1 percent of the total number of such volunteers serving for the fiscal year involved may receive such extensions.

(2) Duration of authority.—The authority established in paragraph (1) shall be effective only for fiscal years 1990 through 1993.

(d) Technical and Conforming Amendments.—The Act (42 U.S.C. 4951 et seq.) is amended—

(1) in section 102 (42 U.S.C. 4952)—

(A) by striking subsections (b) and (c); and

(B) by striking the subsection designation in subsection (a); and

(2) in section 103 (42 U.S.C. 4953)—

(A) in the heading for such section, by inserting "SELECTION AND" before "ASSIGNMENT";

(B) in subsection (a), in the matter preceding paragraph (1), by striking "The Director" and all that follows through "work—" and inserting the following: "The Director, on the receipt of applications by a public or nonprofit private organizations to receive volunteers under this part, may assign volunteers selected under subsection (b) to work in appropriate projects and programs sponsored by such organizations, including work—"; and

(C) in subsection (f) (as redesignated by subsection (b)(1)), by striking "subsection (d)," and inserting "subsection (e),".

SEC. 102. SUPPORT SERVICES.

Section 105 (42 U.S.C. 4955) is amended—

(1) in subsection (a)(1), by striking "$75 per month" both places it appears and inserting "$75 per month in fiscal year 1990, $90 per month in fiscal year 1991, and $95 per month in subsequent fiscal years"; and

(2) in subsection (b)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "places of training)," and inserting "places of training and to and from locations to which volunteers are assigned during periods of service)"; and

(C) by adding at the end the following new paragraphs:

"(2) The Director shall set the subsistence allowance for volunteers under paragraph (1) for each fiscal year so that—

"(A) the minimum allowance is not less than an amount equal to 95 percent of such poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) for a single individual as expected for each fiscal year; and

"(B) the average subsistence allowance, excluding allowances for Hawaii, Guam, American Samoa, and Alaska, is no less than 105 percent of such poverty line.

Hawaii.
Guam.
American Samoa.
Alaska.

"(3)(A) The Director shall consult with regional and State offices of the ACTION Agency to make a determination of the cost of living within each State and whether there are significant local price differentials within the State.

"(B) The Director shall adjust the subsistence allowances for volunteers serving in areas that have a higher cost of living than the national average to reflect such higher cost.

"(4) The Director, in coordination with regional and State offices of the ACTION Agency and taking into account paragraphs (2) and (3), shall establish a method for setting subsistence allowances. The Director shall submit a report on such methods to the appropriate authorizing committees of Congress not later than 90 days after the date of enactment of the fiscal year 1990 appropriation.".

Reports.

SEC. 103. APPLICATIONS FOR ASSISTANCE BY PREVIOUS RECIPIENTS.

Part A of title I (42 U.S.C. 4951 et seq.) is amended by adding at the end the following new section:

42 USC 4960.

"SEC. 110. APPLICATIONS FOR ASSISTANCE BY PREVIOUS RECIPIENTS.

"(a) DURATION.—The Director shall not deny assistance under this part to any project or program, or any public or private nonprofit organization, solely on the basis of the duration of the assistance such project, program, or organization has previously received under this part.

"(b) CONSIDERATION OF APPLICATION.—The Director shall consider each application for the renewal of assistance under this part to any project or program on an individualized, case-by-case basis, taking into account—

"(1) the extent to which the sponsoring organization has made good faith efforts to achieve the goals agreed on in the application of such project or program; and

"(2) any extenuating circumstance beyond the control of the sponsoring organization that may have prevented, delayed, or otherwise impaired the achievement of such goals.

"(c) NEW PROJECT OR PROGRAM.—The Director shall consider each application for assistance under this part for a new project or program, that is submitted by a public or private nonprofit organization that has previously received such assistance (so long as such new project or program is clearly distinct from activities for which the organization has previously received such assistance), on an equal basis with all other applications for such assistance and without regard for the fact that the organization has previously received such assistance.

"(d) RENEWAL OF ASSISTANCE.—With respect to any consideration that relates to the duration of assistance under this part and that is applied by the Director in the case of a request for a renewal of assistance under this part, the Director may not apply any such consideration against any entity that is—

"(1) functioning as an intermediary between the Director and organizations requesting such renewal and ultimately receiving such assistance; and

"(2) utilized by such organizations—

"(A) to prepare and submit applications for such assistance to the Director; and

"(B) to perform other administrative functions and services associated with applying for and receiving such assistance.

"(e) ELIGIBILITY.—All eligible public and private nonprofit organizations shall be able to apply for assistance under this part.

"(f) NOTICE.—The Director shall ensure that the language of each of subsections (a) through (e) is included verbatim in—

"(1) an application developed by the agency for use by individuals who request assistance under this part for a project or program; and

"(2) any regulation or guideline issued for the program established under this part.".

TITLE II—SERVICE-LEARNING PROGRAMS

SEC. 201. CHANGE IN GENERAL REFERENCE TO PROGRAMS.

Part B of title I (42 U.S.C. 4971 et seq.) is amended—

(1) by amending the heading for such part to read as follows:

"PART B—STUDENT COMMUNITY SERVICE PROGRAMS";

(2) in the first sentence of section 111(a) (42 U.S.C. 4971(a)), by inserting "and community service" after "service-learning" both places it appears; and

(3) in section 114 (42 U.S.C. 4974)—

(A) by amending the heading to read as follows:

"STUDENT COMMUNITY SERVICE PROGRAMS";

and

(B) in the first sentence of subsection (a), by inserting "and community service" after "service-learning".

TITLE III—SPECIAL VOLUNTEER PROGRAMS

SEC. 301. AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS.

(a) LIMITATION ON GRANTS AND CONTRACTS.—Section 122(d) (42 U.S.C. 4992(d)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) After the date of enactment of the Domestic Volunteer Service Act Amendments of 1989, no grant or contract under this part may exceed $250,000.".

(b) PROHIBITION AGAINST USE OF FUNDS FOR CERTAIN STATE OFFICES.—Section 122 (42 U.S.C. 4992) is amended by adding at the end the following new subsection:

"(e) None of the amounts made available under section 501(c) for fiscal year 1990 or subsequent fiscal years may be expended for the purpose of establishing or operating any State office with respect to volunteerism.".

SEC. 302. SPECIAL INITIATIVES.

Section 124 (42 U.S.C. 4994) is amended—

(1) by amending the section heading to read as follows:

"DRUG ABUSE EDUCATION AND PREVENTION SERVICES AND ACTIVITIES";

(2) in subsection (a), by striking "public service announcements,";

(3) in subsection (b), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(4) by adding at the end the following new subsections:

Grants.
Contracts.
Rural areas.
Community development.

"(c) In awarding grants and contracts under this section, the Director shall give priority to drug abuse education and prevention projects that serve communities, including rural communities, that have not previously received assistance under this part.

"(d) The Director shall provide for the evaluation of activities and projects conducted with financial assistance received under this section. An application for a grant under this section in excess of $10,000 shall include a description of the methods to be used in evaluating the impact any activities and programs financed through such grant have on the drug abuse problem within the communities where such activities and projects are carried out.".

TITLE IV—ADMINISTRATION AND COORDINATION

SEC. 401. REPORTS.

Section 407 (42 U.S.C. 5047) is amended to read as follows:

"SEC. 407. REPORTS.

Not later than 60 days after the beginning of each fiscal year, the Director shall prepare and submit to the appropriate committees of Congress a report that shall include—

"(1) the annual recruitment plan developed under section 103(c)(4);

"(2) a description of the activities carried out under section 103(b) during the preceding fiscal year, including a specification of the total number of—

"(A) individuals who applied for service as a volunteer under this part;

"(B) applicants approved for such service;

"(C) approved applicants provided an assignment as a volunteer under section 103(b); and

"(D) volunteers assigned to projects and programs that were outside the original home communities of such volunteers;

"(3) a description of efforts undertaken by the Director during the preceding fiscal year to involve individuals, who have formerly served as volunteers under this part, in the activities authorized under section 103(c);

"(4) a description of the number of individuals referred to in paragraph (3) that were involved in the activities referred to in paragraph (3) and the manner of involvement of such individuals; and

"(5) a specification of the number and location of employees of the ACTION Agency designated by the Director to assist in carrying out the duties described in subsections (b) and (c) of section 103 during the preceding fiscal year.".

SEC. 402. EVALUATION.

The first sentence of section 416(a) (42 U.S.C. 5056(a)) is amended by inserting after "this Act" the following: "(including the VISTA Literacy Corps which shall be evaluated as a separate program at least once every 3 years)".

SEC. 403. DEFINITIONS.

Section 421 (42 U.S.C. 5061) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(6) the term 'poverty line for a single individual' means such poverty line as established by the Director of the Office of Management and Budget in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and".

TITLE V—OLDER AMERICAN VOLUNTEER PROGRAMS

SEC. 501. PURPOSES.

Title II (42 U.S.C. 5001 et seq.) is amended by inserting after the heading for such title the following new section:

"STATEMENT OF PURPOSES

"SEC. 200. It is the purpose of— 42 USC 5000.

"(1) this title to provide for Older American Volunteer Programs, comprised of the retired senior volunteer program, the foster grandparent program, and the senior companion program, that empower older individuals to contribute to their communities through volunteer service, enhance the lives of the volunteers and those whom they serve, and provide communities with valuable services;

"(2) part A, the retired senior volunteer program, to utilize the vast talents of older individuals willing to share their experiences, abilities, and skills in responding to a wide variety of community needs;

"(3) part B, the foster grandparent program, to afford low-income older individuals an opportunity to provide supportive, individualized services to children with exceptional or special needs; and

"(4) part C, the senior companion program, to afford low-income older individuals the opportunity to provide personal assistance and companionship to other older individuals through volunteer service.".

SEC. 502. PROGRAMS OF NATIONAL SIGNIFICANCE.

(a) AUTHORITY TO MAKE GRANTS.—Part D of title II (42 U.S.C. 5021 et seq.) is amended by adding at the end the following new section:

"PROGRAMS OF NATIONAL SIGNIFICANCE

"SEC. 225. (a)(1) With not less than one-third of the funds made available under subsection (d) in each fiscal year, the Director shall 42 USC 5025.

make grants under the programs authorized in parts A, B, and C to support programs that address national problems of local concern.

"(2) Except as provided in paragraph (3), the Director may make such grants—

"(A) under the program authorized in part A, to support programs that address the national problems specified in subsection (b);

"(B) under the program authorized in part B, to support programs that address the national problems specified in subsection (b), other than paragraph (10) of such subsection; and

"(C) under the program authorized in part C, to support programs that address the national problems referred to in paragraphs (1), (2), (5), (6), and (10) of subsection (b).

"(3) Each program for which a grant is received under this subsection shall be carried out in accordance with the requirements applicable to the program under part A, B, or C under which the program supported by such grant is to be carried out.

"(b) The Director shall make grants under subsection (a) to support one or more of the following programs to address problems that concern the Nation:

Diseases.
AIDS.
Drugs and drug abuse.

"(1) Programs that assist individuals with chronic and debilitating illnesses, such as acquired immune deficiency syndrome.

"(2) Programs designed to decrease drug and alcohol abuse.

"(3) Programs that work with teenage parents.

"(4) Programs that match volunteer mentors with youth who need guidance.

Education.

"(5) Programs that provide adult and school-based literacy assistance.

Handicapped persons.

"(6) Programs that provide respite care, including care for frail elderly individuals and for disabled or chronically ill children living at home.

"(7) Programs that provide before- and after-school activities that are sponsored by organizations, such as libraries, that serve children of working parents.

Children and youth.

"(8) Programs that work with boarder babies.

"(9) Programs that serve children who are enrolled in child care programs, giving priority to such programs that serve children with special needs.

"(10) Programs that provide care to developmentally disabled adults who reside at home and in community-based settings, including programs that, when appropriate, involve older developmentally disabled individuals as volunteers under this title.

Disadvantaged persons.

"(11) Programs that provide volunteer tutors to assist educationally disadvantaged children, on a one-to-one basis, to improve the basic skills of such children.

"(c)(1) In order for an applicant to be eligible to receive a grant under subsection (a), such applicant shall demonstrate to the Director that such grant will be used to increase the total number of volunteers supported by such applicant under this title.

"(2) Funds made available under subsection (d) shall be used to supplement and not supplant the number of volunteers engaged in activities under parts A, B, and C (without regard to this section) addressing the problem for which such funds are awarded unless such sums are an extension of funds previously provided under this section.

"(d)(1) Except as provided in paragraph (2), in each fiscal year there shall be available to the Director to make grants under subsection (a) not more than—

"(A) $6,000,000 from funds appropriated under section 502(a);

"(B) $9,000,000 from funds appropriated under section 502(b); and

"(C) $9,000,000 from funds appropriated under section 502(c).

"(2) No funds shall be available to the Director to make grants under subsection (a) for a fiscal year unless the amounts appropriated under subsections (a), (b), and (c) of section 502 and available for such fiscal year to carry out parts A, B, and C (without regard to this section) are sufficient to maintain the number of projects and volunteers funded under parts A, B, and C, respectively, in the preceding fiscal year.

Public information.

"(e) The Director shall disseminate information on grants that may be made under subsection (a) to field personnel of the ACTION Agency and to community volunteer organizations that request such information.".

(b) DEFINITION.—Section 421 (42 U.S.C. 5061), as amended by section 403 of this Act, is amended by adding at the end the following new paragraph:

"(7) the term 'boarder baby' means an infant described in section 103 of the Abandoned Infants Assistance Act of 1988 (Public Law 100-505; 42 U.S.C. 670 note).".

SEC. 503. INCREASE IN STIPEND OR ALLOWANCE.

Section 211(d) (42 U.S.C. 5011(d)) is amended—

(1) in the matter preceding paragraph (1), by inserting after "$2.20 per hour" the following: "until October 1, 1990, $2.35 per hour during fiscal year 1991, and $2.50 per hour on and after October 1, 1992";

(2) in paragraph (1), by striking "no increase in the stipend or allowance shall be made pursuant" and inserting "such stipend or allowance shall not be increased as a result of an amendment made"; and

(3) in paragraph (2), by striking "$2.20 per hour" and inserting "the minimum hourly rate specified in this sentence".

SEC. 504. VOLUNTEERS SERVING WITHOUT STIPENDS.

Section 211(f) (42 U.S.C. 5011(f)) is amended—

(1) in paragraph (1)(C) by inserting "unless such individuals have been referred previously for possible placement as volunteers under part A and such placement did not occur" before the period at the end; and

(2) in paragraph (3)—

(A) by inserting "take into consideration or" after "may not";

(B) in subparagraph (A) by inserting "or recruit" after "accept"; and

(C) by adding at the end of paragraph (3) the following: "The Director may not coerce any applicant for, or recipient of, such grant or contract to engage in conduct described in subparagraph (A) or (B).".

SEC. 505. PROMOTION OF PROGRAMS.

(a) DUTIES OF DIRECTOR.—Section 221 (42 U.S.C. 5021) is amended—

(1) by amending the heading to read as follows:

"PROMOTION OF OLDER AMERICAN VOLUNTEER PROGRAMS";

(2) by inserting "(a)" after "SEC. 221."; and

(3) by adding at the end the following new subsection:

"(b)(1) In carrying out this title, the Director shall encourage and facilitate the efforts of private organizations to promote the programs established in parts A, B, and C and the involvement of older individuals as volunteers in such programs.

"(2) The Director shall take appropriate actions to ensure that special efforts are made to publicize the programs established in parts A, B, and C, in order to facilitate recruitment efforts, to encourage greater participation of volunteers, and to emphasize the value of volunteering to the health and well-being of volunteers and the communities of such volunteers. Such actions shall include informing recipients of grants and contracts under this title of all informational materials available from the Director.

"(3) From funds appropriated under section 502, the Director shall expend not less than $250,000 in each fiscal year to carry out paragraph (2).".

SEC. 506. ADMINISTRATIVE COSTS.

Part D of title II (42 U.S.C. 5021 et seq.), as amended by section 502(a) of this Act, is amended by adding at the end the following new section:

"ADJUSTMENTS TO FEDERAL FINANCIAL ASSISTANCE

42 USC 5026. "SEC. 226. (a)(1)(A) In determining the amount of Federal financial assistance to be provided under this title to applicants, the Director shall consider the impact of changes in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor on the administrative costs of operating the projects for which such assistance will be provided.

"(B) The Director shall, to the fullest extent practicable, make appropriate adjustments in the amount referred to in subparagraph (A) to ensure the effective administration of such projects.

"(2) The Director shall take reasonable actions to inform applicants for such assistance that such adjustments may be available.

Reports. "(b)(1) The Director shall submit annually, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report on the extent to which adjustments are made under subsection (a).

"(2) With respect to each of parts A, B, and C, the Director shall include in such report—

"(A) a summary of the number of, and purposes for which, such adjustments are requested by the recipients of grants and contracts under parts A, B, and C, respectively;

"(B) a description of the extent that such requests are accommodated; and

"(C) a statement explaining the decisions made by the Director with respect to the requested adjustments.".

SEC. 507. MULTIYEAR GRANTS OR CONTRACTS.

Title II (42 U.S.C. 5001 et seq.), as amended by sections 502(a) and 506 of this Act, is amended by adding at the end the following new section:

"MULTIYEAR GRANTS OR CONTRACTS

"SEC. 227. (a)(1) Subject to paragraph (2) and the availability of funds, the Director may make a grant or enter into a contract under part A, B, or C for a period not to exceed 3 years. Each applicant who receives a grant, or enters into a contract, under such part for a period exceeding 1 year shall comply with such regulations as the Director may issue to require such applicant—

Regulations.
42 USC 5027.

"(A) to demonstrate that such applicant is in compliance with such part and with the terms and conditions of such grant or contract; and

"(B) to provide information to update the application submitted to obtain such grant or contract.

"(2) If the amount appropriated for any fiscal year to carry out part A, B, or C in a period during which multiyear grants or contracts are in effect under such part is less than the amount appropriated to carry out such part in the first fiscal year in such period, then the amounts payable under all such grants and contracts in effect in such period under such part shall be reduced pro rata.

"(b) The Director shall require each applicant for a multiyear grant or contract under this section, to document or describe in the application any meaningful administrative savings that will result from such multiyear grant or contract.

"(c) If an applicant does not receive a multiyear grant or contract under this section, the Director shall consider such applicant for a single-year grant or contract.

"(d) If the Director approves an application for a contract or grant to carry out a project for a multiyear period as referred to in subsection (a), the Director shall ensure that such project shall be treated in the same manner as a single-year contract or grant with respect to—

"(1) the overall level of funding for such project;

"(2) any adjustments to Federal financial assistance that may be available under section 226; and

"(3) the renewal of funding on the expiration of the term of such contract or grant.".

TITLE VI—LITERACY

SEC. 601. VISTA LITERACY CORPS.

Section 109 (42 U.S.C. 4959) is amended—

(1) in subsection (g)(1), by adding at the end the following new sentence: "The Director shall ensure that records are maintained to indicate the degree of compliance with this requirement."; and

Records.

(2) by adding at the end the following new subsection:

"(h)(1) Subject to paragraphs (2) and (3), with respect to any individual providing volunteer services in the program under this section regarding literacy, the Director may, with the written consent of the individual, assign the individual to serve in the general program under this part regarding literacy.

"(2) To the extent practicable and without undue delay, the Director shall ensure that a volunteer under this section is assigned to the vacancy created within the relevant literacy project or program established under this section.

"(3) Nothing in this subsection shall diminish or otherwise affect the requirement in subsection (g)(1) that funds made available for this section shall be used to supplement and not to supplant the 1986 level of literacy services provided under part A.".

SEC. 602. TECHNICAL AND FINANCIAL ASSISTANCE FOR IMPROVEMENT OF VOLUNTEER PROGRAMS.

Section 123 (42 U.S.C. 4993) is amended—

(1) by adding "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

Grants.
Contracts.

"(b)(1) The Director shall provide assistance for identification, development, and dissemination of effective literacy materials and programs by grant or contract to public and private nonprofit organizations whose principal purpose is combatting of illiteracy and its associated problems.

"(2) The Director shall consult with and annually submit summaries of exemplary projects based on project reports to the national clearinghouse on literacy education, as designated under section 372(d)(2) of the Adult Education Act (20 U.S.C. 1211a(d)(2)).

"(3) The emphasis for the grants or contracts under paragraph (1) shall be—

"(A) broadly disseminating information relating to training and technical assistance for the use of volunteers in projects or programs providing literary services in poor urban and rural areas, including English language literacy services for individuals with limited English proficiency; or

"(B) developing new and innovative solutions to illiteracy problems that involve the more effective and extensive use of volunteers in such projects or programs.".

SEC. 603. SPECIAL INITIATIVES.

Section 124 (42 U.S.C. 4994) is amended by adding at the end the following new subsection:

Grants.
Contracts.

"(c) The Director may provide technical assistance, by grant or contract, to employers who have established or desire to establish worksite literacy programs to assist such employers in obtaining, training, and integrating volunteers into worksite literacy programs. The Director shall coordinate any activities assisted under this subsection with the Department of Education Workplace Literacy programs established under part C of the Adult Education Act (20 U.S.C. 1201 et seq.).".

TITLE VII—GENERAL PROVISIONS

SEC. 701. ASSIGNMENT OF VOLUNTEERS TO HEALTH CARE PROBLEMS.

Section 103(a) (42 U.S.C. 4953(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in addressing significant health care problems, including chronic and life-threatening illnesses and health care for homeless individuals (especially homeless children) through prevention, treatment, and community-based care activities; and".

SEC. 702. OATH OR AFFIRMATION.

The first sentence of section 104(c) (42 U.S.C. 4954(c)) is amended by striking "in section 5(j)" and all that follows through "except" and inserting "for persons appointed to any office of honor or profit by section 3331 of title 5, United States Code, and shall swear (or affirm) that the volunteer does not advocate the overthrow of the constitutional form of government of the United States and that the volunteer is not a member of an organization that advocates the overthrow of the constitutional form of government of the United States, knowing that such organization so advocates, except".

SEC. 703. LIMITATION ON FUNDS APPROPRIATED FOR GRANTS AND CONTRACTS.

Section 108(a) (42 U.S.C. 4958(a)) is amended by striking "16 per centum" and inserting "30 percent".

SEC. 704. ADMINISTRATIVE ORGANIZATION.

Section 401 (42 U.S.C. 5041) is amended by adding at the end the following: "There shall also be in such agency three individuals who shall report directly to the Assistant Director who is primarily responsible for the Older American Volunteer Programs under title II of this Act. Each of such individuals shall be primarily responsible for part A, B, or C of such title.".

SEC. 705. AMENDMENTS RELATING TO DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR.

(a) General Authority.—Section 408(a)(1) of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b(a)(1)) is amended—

(1) in the first sentence, by striking "provide for the self-sufficiency of the Nation's poor" and inserting "stimulate the development of new approaches to provide for greater self-sufficiency of the poor, to test and evaluate such new approaches, to disseminate project results and evaluation findings so that such approaches can be replicated, and to strengthen the integration, coordination, and redirection of activities to promote maximum self-sufficiency among the poor"; and

(2) in the second sentence—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) contain an assurance that the applicant for such grants will obtain an independent, methodologically sound evaluation of the effectiveness of the activities carried out with such grant and will submit such evaluation to the Secretary.". Grants.

(b) Limitations.—

(1) Subsequent grants.—Section 408(b)(1) of such Act is amended— 42 USC 9910b.

(A) by striking "Grants" and inserting "(A) Subject to subparagraph (B), grants";

(B) by striking "new" both places it appears; and

(C) by adding at the end the following new subparagraph:

"(B) After the first fiscal year for which an eligible entity receives a grant under this section to carry out a program, the amount of a subsequent grant made under this section to such entity to carry out such program may not exceed 80 percent of the amount of the grant previously received by such entity under this section to carry out such program.".

42 USC 9910b.

(2) AMOUNT AND NUMBER OF GRANTS.—Section 408(b)(3) of such Act is amended—

(A) by inserting "in each fiscal year" after "one grant";

(B) by striking "$250,000" and inserting "$350,000"; and

(C) by adding at the end the following new sentence: "Not more than 2 grants may be made under this section to an eligible entity to carry out a particular program.".

(c) DISSEMINATION OF RESULTS.—Subsection (c) of section 408 of such Act is amended to read as follows:

"(c) DISSEMINATION OF RESULTS.—As soon as practicable, but not later than 180 days after the end of the fiscal year in which a recipient of a grant under this section completes the expenditure of such grant, the Secretary shall prepare and make available to each State and each eligible entity a description of the program carried out with such grant, any relevant information developed and results achieved, and a summary of the evaluation of such program received under subsection (a)(1)(D) so as to provide a model of innovative programs for other eligible entities.".

(d) DEFINITION.—Section 408(d)(1) of such Act is amended by inserting before the semicolon the following: ", except that such term includes an organization that serves migrant and seasonal farm workers and that receives a grant under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) in the fiscal year preceding the fiscal year for which such organization requests a grant under this section".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 408(e) of such Act is amended—

(1) by striking "is" and inserting "are"; and

(2) by inserting after "1989," the following: "and $7,000,000 for fiscal year 1990,".

(f) REPORT TO CONGRESS.—Section 408 of such Act (as amended by subsections (d) and (e) of this section) is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (c) the following new subsections:

"(d) REPLICATION OF PROGRAMS.—(1) The Secretary shall annually identify programs that receive grants under this section that demonstrate a significant potential for dealing with particularly critical needs or problems of the poor that exist in a number of communities.

Grants.

"(2) Not less than 10 percent, and not more than 25 percent, of the funds appropriated for each fiscal year to carry out this section shall be available to make grants under this section to replicate in additional geographic areas programs identified under paragraph (1).

"(e) REPORT TO CONGRESS.—The Secretary shall submit annually, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report containing—

"(1) a description of—

"(A) programs for which grants under this section in the then most recently completed fiscal year; and

"(B) the evaluations received under subsection (a)(1)(D) in such fiscal year; and

"(2) a description of the methods used by the Secretary to comply with subsection (c);

"(3) recommendations of the Secretary regarding the suitability of carrying out such programs with funds made available under other Federal laws; and

"(4) a description of each program identified under subsection (d)(1) or replicated under subsection (d)(2), and an identification of the geographical location where such program was carried out.".

TITLE VIII—AUTHORIZATION OF APPROPRIATIONS

SEC. 801. NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS AUTHORIZATION.

(a) VOLUNTEERS IN SERVICE TO AMERICA.—Section 501(a)(1) (42 U.S.C. 5081(a)(1)) is amended—

(1) by striking "and" after "1988,"; and

(2) by inserting before the period at the end the following: ", $30,600,000 for fiscal year 1990, $39,900,000 for fiscal year 1991, $47,800,000 for fiscal year 1992, and $56,000,000 for fiscal year 1993";

(b) VISTA LITERACY CORPS.—Section 501(a) (42 U.S.C. 5081(a)) is amended—

(1) in paragraph (2)—

(A) by striking "and" after "1988,"; and

(B) by inserting before the period at the end the following: ", $6,050,000 for fiscal year 1990, $7,500,000 for fiscal year 1991, $9,000,000 for fiscal year 1992, and $10,500,000 for fiscal year 1993"; and

(2) in paragraph (3), by striking "1987, 1988, and 1989" and inserting "1987 through 1993".

(c) SERVICE-LEARNING PROGRAMS.—Section 501(b) (42 U.S.C. 5081(b)) is amended by inserting before the period at the end the following: ", $1,900,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, $2,100,000 for fiscal year 1992, and $2,200,000 for fiscal year 1993";

(d) SPECIAL VOLUNTEER PROGRAMS.—Section 501(c) (42 U.S.C. 5081(c)) is amended—

(1) in the first sentence, by inserting before the period at the end the following: ", $1,100,000 for fiscal year 1990, $1,150,000 for fiscal year 1991, $1,200,000 for fiscal year 1992, and $1,275,000 for fiscal year 1993"; and

(2) in the third sentence—

(A) by striking "and" after "1989,"; and

(B) by inserting before the period the following: ", $5,250,000 for fiscal year 1992, and $5,500,000 for fiscal year 1993".

(e) YEARS OF VOLUNTEER SERVICE.—Section 501(d)(1) (42 U.S.C. 5081(d)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) 2800 years of volunteer service in fiscal year 1990;

"(E) 3000 years of volunteer service in fiscal year 1991;

"(F) 3200 years of volunteer service in fiscal year 1992; and

"(G) 3400 years of volunteer service in fiscal year 1993.".

SEC. 802. PRIORITY.

Section 501(d) (42 U.S.C. 5081(d)) is amended by adding at the end the following new paragraph:

"(4)(A) In applying criteria with respect to meeting the number of years of volunteer service under paragraph (1) for a fiscal year, the Director may not exclude the costs of complying with section 105(b)(2) for each volunteer under this part.

"(B) The minimum level of allowances for subsistence required under section 105(b)(2) to be provided to each volunteer under this part may not be reduced or limited in order to provide for the increase in the number of years of volunteer service specified in paragraph (1) for each of the fiscal years 1990 through 1993.

"(C) If the Director determines that funds appropriated to carry out part A of title I are insufficient to provide for the years of volunteer service as required in paragraph (1), the Director shall, within a reasonable period of time in advance of the date on which such additional funds must be reallocated to satisfy the requirements of such subsection, notify the relevant authorizing and appropriating Committees of Congress. Funds shall be reallocated to part A of title I from amounts appropriated for part C of such title prior to the reallocation of funds appropriated for other parts.".

SEC. 803. ADMINISTRATION AND COORDINATION.

Section 504 (42 U.S.C. 5084) is amended—

(1) by inserting "(a)" after "Sec. 504."; and

(2) by adding at the end the following new subsection:

"(b) For each of the fiscal years 1990 through 1993, there is authorized to be appropriated for the administration of this Act, as authorized in title IV, 20 percent of the total amount appropriated under sections 501 and 502.".

SEC. 804. OLDER AMERICAN VOLUNTEER PROGRAMS.

(a) Retired Senior Volunteer Program.—Section 502(a) (42 U.S.C. 5082(a)) is amended—

(1) by inserting after "appropriated" the following: "not less than the amount appropriated in the previous fiscal year and not more than";

(2) by striking "$31,100,000" and all that follows through "1988, and"; and

(3) by inserting after "1989" the following: ", $39,900,000 for fiscal year 1990, $43,900,000 for fiscal year 1991, $48,300,000 for fiscal year 1992, and $53,100,000 for fiscal year 1993,".

(b) Foster Grandparent Program.—Section 502(b) (42 U.S.C. 5082(b)) is amended—

(1) by inserting after "appropriated" "not less than the amount appropriated in the previous fiscal year and not more than";

(2) by striking "$58,700,000" and all that follows through "1988, and"; and

(3) by inserting after "1989" the following: ", $70,800,000 for fiscal year 1990, $80,900,000 for fiscal year 1991, $91,700,000 for fiscal year 1992, and $98,200,000 for fiscal year 1993,".

(c) Senior Companion Program.—Section 502(c) (42 U.S.C. 5082(c)) is amended—

(1) by inserting after "appropriated" "not less than the amount appropriated in the previous fiscal year and not more than";

(2) by striking "$28,600,000" and all that follows through "1988, and"; and

(3) by inserting after "1989" the following: ", $36,600,000 for fiscal year 1990, $39,000,000 for fiscal year 1991, $44,700,000 for fiscal year 1992, and $48,700,000 for fiscal year 1993,".

TITLE IX—TECHNICAL AMENDMENTS

SEC. 901. AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in the first section (42 U.S.C. prec. 4951) is amended—

(1) by striking the item relating to section 103 and inserting the following new item:

"Sec. 103. Selection and assignment of volunteers.";

(2) by inserting after the item relating to section 109 the following new item:

"Sec. 110. Applications for assistance by previous recipients.";

(3) by striking the item relating to the heading for part B of title I and inserting the following new item:

"Part B—Student Community Service Programs";

(4) by striking the item relating to section 114 and inserting the following new item:

"Sec. 114. Student community service programs.";

(5) by striking the item relating to section 124 and inserting the following new item:

"Sec. 124. Drug abuse education and prevention services and activities.";

(6) by striking the item relating to the heading of title II and inserting the following new item:

"TITLE II—OLDER AMERICAN VOLUNTEER PROGRAMS";

(7) by inserting after the item relating to the heading of title II the following new item:

"Sec. 200. Statement of purposes.";

(8) in the matter relating to the heading of part B of title II by striking "AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS";

(9) by striking the item relating to section 221 and inserting the following new item:

"Sec. 221. Promotion of older American volunteer programs.";

(10) by adding at the end of the items relating to part D of title II the following new items:

"Sec. 225. Programs of national significance.
"Sec. 226. Adjustments to Federal financial assistance.
"Sec. 227. Multiyear grants or contracts.";

and

(11) by striking the item relating to section 502 and inserting the following new item:

"Sec. 502. Older Americans volunteer programs.".

SEC. 902. TECHNICAL AMENDMENTS.

The Act (42 U.S.C. 4951 et seq.) is amended—

(1) in the heading of title II (42 U.S.C. prec. 5001), by striking "NATIONAL";

(2) in section 201(a) (42 U.S.C. 5001(a)—

(A) by striking "programs" and inserting "projects"; and

(B) by striking "program" each place it appears and inserting "project";

(3) in the heading of part B of title II (42 U.S.C. prec. 5011) by striking "AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS";

(4) in section 212(b) (42 U.S.C. 5012(b)), by striking "a community action agency" and all that follows through the period and inserting "an eligible entity as defined in section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)).";

(5) in section 213(c)(1) (42 U.S.C. 5013(c))—

(A) by inserting "after subsection (a)" after "contracts"; and

(B) by inserting "individuals" after "elderly" each place it appears;

(6) in section 224 (42 U.S.C. 5024), by striking "programs" and inserting "projects"; and

(7) in the heading of section 502 (42 U.S.C. 5082) by striking "NATIONAL".

TITLE X—TECHNICAL AMENDMENTS TO OTHER LAWS

SEC. 1001. TECHNICAL AMENDMENTS TO THE ANTI-DRUG ABUSE ACT OF 1988.

(a) DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS.—Section 3503(2) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11803(2)) is amended by striking "that it has" and inserting "have".

(b) PROGRAM FOR RUNAWAY AND HOMELESS YOUTH.—Section 3515 of such Act (42 U.S.C. 11825) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (B), by inserting "stating" after "(B)"; and

(B) in subparagraph (C), by striking "a description of" and inserting "describing"; and

(2) in subsection (c), by striking "Administrator" and inserting "such officer".

(c) EVALUATION.—

(1) IN GENERAL.—Section 3522 of such Act (42 U.S.C. 11842) is amended—

(A) in subsection (a)—

(i) by striking ", acting through the Administrator,"; and

(ii) by striking "(as defined in section 3601(6))"; and

(B) in subsection (b), by striking "Administrator" and inserting "Secretary of Health and Human Services".

(2) Administrator.—Section 3601 of such Act (42 U.S.C. 11851) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (13) as paragraphs (1) through (12), respectively.

(d) Reports.—Section 7296(b) of such Act (42 U.S.C. 5601 note) is amended—

(1) in paragraph (2) by striking "section 7274(b)(1)" and inserting "section 7253(b)(1)"; and

(2) by amending paragraph (3) to read as follows:

"(3) Notwithstanding the 180-day period provided in—

"(A) section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.), as added by section 7255;

"(B) section 361 of the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.), as redesignated by section 7273(e)(2) and amended by section 7274; and

"(C) section 404(a)(5) of the Missing Children's Assistance Act (42 U.S.C. 5773(a)(5)), as amended by section 7285(a)(3);

the reports required by such sections to be submitted with respect to fiscal year 1988 shall be submitted not later than August 1, 1989.".

(e) Clerical Amendments.—

(1) Authorized funds.—Section 7265(a)(4) of such Act (102 Stat. 4448) is amended by inserting "after 'fiscal years' " before ", and". 42 USC 5671.

(2) Authorization of appropriations.—Section 7280(2) of such Act (102 Stat. 4459) is amended by inserting "after 'fiscal years' " before the comma at the end. 42 USC 5751.

(3) Authorization of appropriations.—Section 7289(3) of such Act (102 Stat 4461) is amended by inserting "after 'fiscal years' " before the period at the end. 42 USC 5777.

SEC. 1002. TECHNICAL AMENDMENT TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.

Section 291(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(1)) is amended by striking "is authorized" and inserting "are authorized".

SEC. 1003. TECHNICAL AMENDMENTS TO THE RUNAWAY AND HOMELESS YOUTH ACT.

The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended— Reports.

(1) in section 361(a) (42 U.S.C. 5715(a)), by striking "report to the Congress" and inserting "submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate";

(2) in section 361(b) (42 U.S.C. 5715(b)), by striking "The Secretary shall annually report to the Congress" and inserting "Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate"; and

(3) in section 366(a)(1) (42 U.S.C. 5751(a)(1)), by striking "is authorized" and inserting "are authorized".

SEC. 1004. TECHNICAL AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT.

The Missing Children's Assistance Act (42 U.S.C. 5771 et seq.) is amended—

(1) in section 401 (42 U.S.C. 5601 note)—

(A) by inserting open quotation marks after "as the"; and

(B) by inserting close quotation marks after "Act";

(2) in section 404 (42 U.S.C. 5773)—

(A) in subsection (a)(5)(C), by striking the comma at the end and inserting a semicolon; and

(B) in subsection (b)(2)(A), by inserting "to" after "(A)"; and

(3) in section 405(a)(9), (42 U.S.C. 5775(a)(9)), by striking "clearinghouse" and inserting "clearinghouses".

Approved December 7, 1989.

LEGISLATIVE HISTORY—H.R. 1312 (S. 1426):

HOUSE REPORTS: No. 101-116 (Comm. on Education and Labor).
SENATE REPORTS: No. 101-122 accompanying S. 1426 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 11, considered and passed House.
Sept. 15, considered and passed Senate, amended, in lieu of S. 1426.
Nov. 19, Senate agreed to conference report.
Nov. 20, House agreed to conference report.

○

Public Law 101-205
101st Congress

An Act

To amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to authorize the distribution of wholesome meat and poultry products for human consumption that are not in compliance with the Acts to charity and public agencies.

Dec. 7, 1989
[H.R. 2134]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION OF CERTAIN MEAT TO CHARITY AND PUBLIC AGENCIES.

Section 403(a) of the Federal Meat Inspection Act (21 U.S.C. 673(a)) is amended—

(1) in the first sentence, by redesignating clauses (1) through (3) as clauses (A) through (C), respectively;

(2) by designating the first through fourth sentences as paragraphs (1) through (4), respectively;

(3) in paragraph (2) (as so designated), by inserting after "entry of the decree," the following: "(A) be distributed in accordance with paragraph (5), or (B)"; and

(4) by adding at the end thereof the following new paragraph:

"(5)(A) An article that is condemned under paragraph (1) may as the court may direct, after entry of the decree, be distributed without charge to nonprofit, private entities or to Federal, State, or local government entities engaged in the distribution of food without charge to individuals, if such article—

"(i) has been inspected under this Act and found to be wholesome and not to be adulterated within the meaning of paragraphs (1) through (7) and (9) of section 1(m) and a determination is made at the time of the entry of the decree that such article is wholesome and not so adulterated; and

"(ii) is plainly marked 'Not for Sale' on such article or its container.

"(B) The United States may not be held legally responsible for any article that is distributed under subparagraph (A) to a nonprofit, private entity or to a Federal, State, or local government entity, if such article—

"(i) was found after inspection under this Act to be wholesome and not adulterated within the meaning of paragraphs (1) through (7) and (9) of section 1(m) and a determination was made at the time of the entry of the decree that such article was wholesome and not so adulterated; and

"(ii) was plainly marked 'Not for Sale' on such article or its container.

"(C) The person from whom such article was seized and condemned may not be held legally responsible for such article, if such article—

"(i) was found after inspection under this Act to be wholesome and not adulterated within the meaning of paragraphs (1) through (7) and (9) of section 1(m) and a determination was made at the time of the entry of the decree that such article was wholesome and not so adulterated; and

"(ii) was plainly marked 'Not for Sale' on such article or its container.".

SEC. 2. DISTRIBUTION OF CERTAIN POULTRY PRODUCTS TO CHARITY AND PUBLIC AGENCIES.

Section 20(a) of the Poultry Products Inspection Act (21 U.S.C. 467b(a)) is amended—

(1) in the first sentence, by redesignating clauses (1) through (3) as clauses (A) through (C), respectively;

(2) by designating the first through fourth sentences as paragraphs (1) through (4), respectively;

(3) in paragraph (2) (as so designated), by inserting after "entry of the decree," the following: "(A) be distributed in accordance with paragraph (5), or (B)"; and

(4) by adding at the end thereof the following new paragraph:

"(5)(A) An article that is condemned under paragraph (1) may as the court may direct, after entry of the decree, be distributed without charge to nonprofit, private entities or to Federal, State, or local government entities engaged in the distribution of food without charge to individuals, if such article—

"(i) is capable of use as a human food;

"(ii) has been inspected under this Act and found to be wholesome and not to be adulterated within the meaning of paragraphs (1) through (7) of section 4(g) and a determination is made at the time of the entry of the decree that such article is wholesome and not so adulterated; and

"(iii) is plainly marked 'Not for Sale' on such article or its container.

"(B) The United States may not be held legally responsible for any article that is distributed under subparagraph (A) to a nonprofit, private entity or to a Federal, State, or local government entity, if such article—

"(i) was found after inspection under this Act to be wholesome and not adulterated within the meaning of paragraphs (1) through (7) of section 4(g) and a determination was made at the time of the entry of the decree that such article was wholesome and not so adulterated; and

"(ii) was plainly marked 'Not for Sale' on such article or its container.

"(C) The person from whom such article was seized and condemned may not be held legally responsible for such article, if such article—

"(i) was found after inspection under this Act to be wholesome and not adulterated within the meaning of paragraphs (1) through (7) of section 4(g) and a determination was made at the time of entry of the decree that such article was wholesome and not so adulterated; and "(ii) was plainly marked 'Not for Sale' on such article or its container.".

Approved December 7, 1989.

LEGISLATIVE HISTORY—H.R. 2134:

HOUSE REPORTS: No. 101-348 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Nov. 13, considered and passed House.
  Nov. 20, considered and passed Senate.

○

Public Law 101-206
101st Congress

An Act

Dec. 7, 1989
[H.R. 3720]

To amend provisions of the National Consumer Cooperative Bank Act relating to the payment of interest on and the redemption of class A notes issued by the National Consumer Cooperative Bank.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Consumer Cooperative Bank Amendments of 1989.
12 USC 3001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Consumer Cooperative Bank Amendments of 1989".

SEC. 2. AMENDMENTS RELATING TO CLASS A NOTES.

Section 104(c) of the National Consumer Cooperative Bank Act (12 U.S.C. 3014(c)) is amended—

(1) by striking out the first 2 sentences and inserting the following: "The holder of class A notes shall be entitled to interest at a rate or rates determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable terms and conditions as of the last day of the month preceding each issuance of such class A notes to the Secretary of the Treasury, except that, until October 1, 1990, interest payments shall not exceed 25 percent of gross revenues for the year, less necessary operating expenses including a reserve for possible losses. From time to time, the Bank may, with the approval of the Secretary of the Treasury and consistent with the terms of this Act, issue replacement class A notes upon terms and conditions to be agreed upon by the Bank and the Secretary, bearing interest as provided in this subsection (c), in substitution for those class A notes previously issued."; and

(2) by adding at the end the following: "All class A notes shall be redeemed by the Bank no later than October 31, 2020.".

Approved December 7, 1989.

LEGISLATIVE HISTORY—H.R. 3720:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 20, considered and passed House.
Nov. 21, considered and passed Senate.

○

Public Law 101-207
101st Congress

An Act

To authorize appropriations for fiscal year 1990 for the Office of the United States Trade Representative, the United States International Trade Commission, and the United States Customs Service.

Dec. 7, 1989
[S. 1164]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—Paragraph (1) of section 141(g) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended—

(1) by striking out "1988" in subparagraphs (A) and (B) and inserting in lieu thereof "1990",

(2) by striking out "$15,172,000" in subparagraph (A) and inserting in lieu thereof "$19,651,000", and

(3) by striking out "$69,000" in subparagraph (B)(i) and inserting in lieu thereof "$89,000".

(b) PANELS AND COMMITTEES UNDER CANADA FREE-TRADE AGREEMENT.—Paragraph (1) of section 406(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112, note) is amended by striking out "1989 such sums as may be necessary" and inserting in lieu thereof "1990, $1,492,000".

SEC. 2. UNITED STATES INTERNATIONAL TRADE COMMISSION.

Paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

(1) by striking out "1988" and inserting in lieu thereof "1990", and

(2) by striking out "$35,386,000" and inserting in lieu thereof "$39,943,000".

SEC. 3. UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—Subsection (b) of section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

(1) by striking out "fiscal year 1989" each place it appears and inserting in lieu thereof "fiscal year 1990",

(2) by striking out "$440,504,000" in paragraph (1) and inserting in lieu thereof "$418,822,000",

(3) by striking out "$615,247,000" in paragraph (2) and inserting in lieu thereof "$656,468,000",

(4) by striking out "$142,262,000" in paragraph (3) and inserting in lieu thereof "$128,128,000", and

(5) by striking out paragraph (4).

(b) APPOINTMENT OF THE COMMISSIONER OF CUSTOMS.—(1) The second sentence of the first section of the Act entitled "An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury", approved March 3, 1927 (44 Stat. 1381, 19 U.S.C. 2071), is amended to read as follows: "The Commissioner of Customs, who shall be appointed by the President by and with the advice and consent of the Senate, shall—

"(1) be at the head of the United States Customs Service;

"(2) carry out the duties and powers prescribed by the Secretary of the Treasury; and

Reports.

"(3) report to the Secretary of the Treasury through such other officials as may be designated by the Secretary.".

19 USC 2071 note.

(2) The individual who is serving as the Commissioner of Customs on the day before the date of the enactment of this Act may continue to serve in such capacity until a Commissioner of Customs, appointed as provided in the amendment made by paragraph (1), takes office.

(c) FOREIGN TRADE ZONES AT SMALL AIRPORTS.—

(1) Paragraph (2) of section 13031(e) of Public Law 99-272 (19 U.S.C. 58c(e)(2)) is amended—

(A) by striking out "This subsection" and inserting in lieu thereof "(A) This subsection", and

(B) by adding at the end thereof the following new subparagraph:

"(B) Subparagraph (C) of paragraph (6) shall not apply with respect to any foreign trade zone or subzone that is located at, or in the vicinity of, an airport to which section 236 of the Trade and Tariff Act of 1984 applies.".

(2) Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section, customs services provided in connection with, or with respect to, any foreign trade zone or subzone that is located at, or in the vicinity of, any airport described in subsection (a) or designated under subsection (c) shall be considered to be customs services provided at such airport.".

New York.

(d) NORTHERN BORDER ENHANCEMENT PROGRAM.—The Commissioner of Customs shall provide the facilities, equipment, and staff at the port of entry at Chateaugay, New York, that are necessary to make the port of entry at Chateaugay, New York, a commercial center under the Northern Border Enhancement Program administered by the Commissioner of Customs.

(e) DISPOSITION OF FORFEITED PROPERTY.—

(1) Subparagraph (B) of section 616(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)(1)) is amended to read as follows:

"(B) Transfer any of the property to—

"(i) any other Federal agency;

"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property; or

"(iii) the Civil Air Patrol.".

(2) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended by adding at the end thereof the following new paragraph:

Drugs and drug abuse.

"(3) Aircraft may be transferred to the Civil Air Patrol under paragraph (1)(B)(iii) in support of air search and rescue and other emergency services and, pursuant to a memorandum of understanding entered into with a Federal agency, illegal drug traffic surveillance. Jet-powered aircraft may not be transferred to the Civil Air Patrol under the authority of paragraph (1)(B)(iii).".

(f) USER FEE FOR CUSTOMS SERVICES AT SMALL SEAPORTS AND OTHER FACILITIES.—

(1) Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b), as amended by this Act, is further amended—

(A) by inserting ", seaport, or other facility" after "airport" each place it appears in the section other than in paragraphs (1) and (2) of subsection (a),

(B) by inserting ", seaports, and other facilities" after "airports" in subsection (c), and

(C) by inserting "AND OTHER FACILITIES" after "AIRPORTS" in the section heading.

(2) Paragraph (2) of section 13031(e) of Public Law 99-272, as amended by this Act, is further amended by inserting ", seaport, or other facility" after "airport" each place it appears. 19 USC 58c.

Approved December 7, 1989.

LEGISLATIVE HISTORY—S.1164 (H.R. 2443):

HOUSE REPORTS: No. 101-70 accompanying H.R. 2443 (Comm. on Ways and Means).
SENATE REPORTS: No. 101-48 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Aug. 3, considered and passed Senate.
Nov. 20, considered and passed House, amended.
Nov. 21, Senate concurred in House amendment.

○

Public Law 101-208
101st Congress

An Act

Dec. 7, 1989
[S. 1877]

To improve the operational efficiency of the James Madison Memorial Fellowship Foundation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT FOR EXPENSES.

Section 803(d) of the James Madison Memorial Fellowship Act (20 U.S.C. 4502(d)) is amended to read as follows:

"(d)(1) Subject to paragraph (2), members of the Board shall serve without pay.

"(2) Members of the Board and the President, Executive Secretary, and other personnel of the Foundation shall be entitled to reimbursement for travel, subsistance, and other necessary expenses incurred in the performance of their duties at rates applicable to judges of the United States under section 456(a) of title 28, United States Code.".

SEC. 2. PRESIDENT AND EXECUTIVE SECRETARY OF FOUNDATION.

Section 813 of the James Madison Memorial Fellowship Act (20 U.S.C. 4512) is amended to read as follows:

"PRESIDENT AND EXECUTIVE SECRETARY OF FOUNDATION

"SEC. 813. (a)(1) The Board may appoint a President of the Foundation to serve full-time or part-time and for such a term as the Board shall determine.

"(2) The President shall carry out such of the functions and duties of the Foundation as the Board may determine, subject to the supervision and direction of the Board.

"(3) The President shall be compensated at a rate to be determined by the Board without regard to subchapter III of chapter 53 of title 5, United States Code, not to exceed the rate for level III of the Executive Schedule under section 5314 of that title.

"(4) Sections 5532, 8344, and 8468 of title 5, United States Code, shall not apply to a person while such person is serving as President of the Foundation. The first sentence of this paragraph shall not, in the case of any individual, apply longer than December 31, 1990.

(b)(1) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board.

"(2) The Executive Secretary shall be the chief operating officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board or the President, as determined by the Board.

"(3) The Executive Secretary shall be compensated at the rate specified for employees placed in grade GS-18 of the General Schedule set forth in section 5332 of title 5, United States Code.".

39-139 0 - 89 (208)

SEC. 3. ADMINISTRATIVE PROVISIONS.

Section 814 of the James Madison Memorial Fellowship Act (20 U.S.C. 4513) is amended—

(1) in subsection (a) by—

(A) amending paragraph (1) to read as follows:

"(1) to appoint and fix the compensation of such personnel as may be necessary to carry out this Act, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, but at General Schedule pay rates not in excess of the maximum rate for grade GS-15 of the General Schedule under section 5332 of that title;";

(B) amending paragraph (8) to read as follows:

"(8) to rent office space in the District of Columbia or its environs;";

(C) striking "and" at the end of paragraph (9);

(D) striking "(10)" and inserting "(11)"; and

(E) inserting immediately following paragraph (9) the following new paragraph:

"(10) to expend not more than 5 percent of its annual operating budget to pay the costs of fundraising activities, including public and private gatherings; and"; and

(2) by adding at the end thereof the following new subsection:

"(c) On request of the Chairman of the Foundation, the head of a Federal agency may detail personnel of the agency to the Foundation to assist the Foundation in carrying out this Act. Details under this subsection shall be without reimbursement by the Foundation to the agency from which personnel are detailed.".

Approved December 7, 1989.

LEGISLATIVE HISTORY—S. 1877:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 16, considered and passed Senate.
Nov. 21, considered and passed House, amended. Senate concurred in House amendment.

○

Public Law 101-209
101st Congress

Joint Resolution

Dec. 7, 1989
[S.J. Res. 164]

Designating 1990 as the "International Year of Bible Reading".

Whereas the Bible has made a unique contribution in shaping the United States as a distinctive and blessed Nation and people;

Whereas deeply held values springing from the Bible led to the early settlement of our Nation;

Whereas many of our great national leaders, such as Presidents Washington, Jackson, Lincoln, and Wilson, paid tribute to the important influence the Bible has had in the development of our Nation;

Whereas President Jackson called the Bible "the rock on which our Republic rests";

Whereas the history of our Nation illustrates the value of voluntarily applying the teachings of the Bible in the lives of individuals and of families; and

Whereas numerous individuals and organizations around the world are joining hands to encourage international Bible reading in 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1990 is designated as the "International Year of Bible Reading". The President is authorized and requested to issue a proclamation recognizing both the formative influence the Bible has had on many societies of the world and the value of the study of the Bible.

Approved December 7, 1989.

LEGISLATIVE HISTORY—S.J. Res. 164:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 20, considered and passed Senate.
Nov. 20, considered and passed House, amended. Senate concurred in House amendments.

○

39-139 O - 89 - (209)

Public Law 101-210
101st Congress

Joint Resolution

Providing for the appointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution.

Dec. 7, 1989
[S.J. Res. 203]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with Section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the resignation of Murray Gell-Mann of California on September 13, 1988, is filled by the appointment of Homer Alfred Neal of Michigan. The appointment is for a term of six years, beginning on the date on which this joint resolution becomes law.

Approved December 7, 1989.

LEGISLATIVE HISTORY—S.J. Res. 203:

SENATE REPORTS: No. 101-149 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 2, considered and passed Senate.
Nov. 17, considered and passed House, amended.
Nov. 19, Senate concurred in House amendments.

○

Public Law 101-211
101st Congress

Joint Resolution

Dec. 7, 1989
[S.J. Res. 202]

Providing for the appointment of Robert James Woolsey, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with Section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the death of Carlisle H. Humelsine of Virginia on January 26, 1989, is filled by the appointment of Robert James Woolsey, Jr. of Maryland. The appointment is for a term of six years, beginning on the date on which this joint resolution becomes law.

Approved December 7, 1989.

LEGISLATIVE HISTORY—S.J. Res. 202:

SENATE REPORTS: No. 101-148 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 2, considered and passed Senate.
Nov. 17, considered and passed House, amended.
Nov. 19, Senate concurred in House amendments.

○

Public Law 101-212
101st Congress

Joint Resolution

To designate the week of December 10, 1989, through December 16, 1989, as "National Drunk and Drugged Driving Awareness Week".

Dec. 11, 1989
[H.J. Res. 429]

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately 47,000 in 1988;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas 37.5 percent of all drivers fatally injured in 1988 had blood alcohol concentrations above the legal limit of .10;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past 75 years except for Americans 15 to 24 years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was 20 years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs, either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as 10,000 lives each year;

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness Week in each of the last 7 years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter; and

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 10, 1989, through December 16, 1989, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate activities.

Approved December 11, 1989.

LEGISLATIVE HISTORY—H.J. Res. 429:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 21, considered and passed House and Senate.

○

Public Law 101-213
101st Congress

An Act

To amend the Department of Transportation Act to reauthorize local rail service assistance.

Dec. 11, 1989
[H.R. 422]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Local Rail Service Reauthorizing Act.
49 USC app. 1651 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Local Rail Service Reauthorizing Act".

SEC. 2. LOCAL RAIL FREIGHT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by striking "and not to exceed $8,000,000 for the fiscal year ending September 30, 1988" and inserting in lieu thereof "not to exceed $8,000,000 for the fiscal year ending September 30, 1988, not to exceed $10,000,000 for the fiscal year ending September 30, 1989, and not to exceed $15,000,000 for the fiscal year ending September 30, 1990"; and

(2) by striking "after September 30, 1988" and inserting in lieu thereof "after September 30, 1990".

(b) FISCAL YEAR 1990 FUNDS.—(1) With respect to funds appropriated for carrying out section 5(i) of the Department of Transportation Act for fiscal year 1990, each State must apply for such funds within 60 days after the date of enactment of legislation authorizing appropriations for that fiscal year. Upon receipt of an application under such subsection, the Secretary shall consider the application and notify the State submitting such an application as to its approval or disapproval within 60 days. Funds provided under this subsection shall remain available to a State for obligation for the first 3 months after the end of the fiscal year for which such funds have been made available. Any funds which have not been timely applied for under this subsection, or which have remained unobligated after the expiration of the period described in the previous sentence, shall be made available to the Secretary for rail freight assistance projects meeting the requirements of this section.

(2) With respect to funds appropriated for carrying out section 5(h) of the Department of Transportation Act for fiscal year 1990, the Secretary shall establish such procedures as are necessary to ensure that funds available to the Secretary for use for rail service assistance projects are distributed by April 1, 1990. If any funds are not distributed by that date, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of such funds and the reasons for the delay in distribution.

Reports.

(3) Section 4021(a)(2) of Public Law 99-509 is repealed.

45 USC 1321.

(c) Local Rail Freight Assistance Program.—Section 5 of the Department of Transportation Act (49 U.S.C. App. 1654) is amended to read as follows:

"LOCAL RAIL FREIGHT ASSISTANCE

"Sec. 5. (a) A State is eligible to receive rail freight assistance under this section if—

"(1) such State has established an adequate plan for rail services in such State, including a suitable process for updating, revising, and amending such plan;

"(2) such State plan is administered or coordinated by a designated State agency and provides for the equitable distribution of resources;

"(3) such State agency—

"(A) has authority and administrative jurisdiction to develop, promote, supervise, and support safe, adequate, and efficient rail transportation services;

"(B) employs or will employ, directly or indirectly, sufficient trained and qualified personnel;

"(C) maintains or will maintain adequate programs of investigation, research, promotion, and development, with provisions for public participation; and

"(D) is designated and directed solely, or in cooperation with other State agencies, to take all practicable steps to improve rail transportation safety and to reduce transportation-related energy utilization and pollution;

"(4) such State provides satisfactory assurance that it has or will adopt and maintain adequate procedures for financial control, accounting, and performance evaluation in order to assure proper use of Federal funds; and

"(5) such State complies with regulations of the Secretary issued under this section and the Secretary determines that such State meets or exceeds the requirements of paragraphs (1) through (4) of this subsection.

"(b) The Secretary shall, in accordance with this section, provide financial assistance to States for rail freight assistance projects that are designed to cover—

"(1) the cost of acquiring, by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein, to maintain existing or provide for future rail freight service, but only if the Interstate Commerce Commission has authorized, or has exempted from the requirements of such authorization, the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project;

"(2) the cost of rehabilitating or improving rail properties on a line of railroad to the extent necessary to permit adequate and efficient rail freight service on such line, but only if the line of railroad related to the project is certified by the railroad as having carried 5 million gross ton miles of freight or less per mile during the prior year; and

"(3) the cost of constructing rail or rail related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, sidings, bridges, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail freight service, but only if the line of railroad related to the project is certified by the railroad as having carried 5 million gross ton miles of freight or less per mile during the prior year.

"(c)(1) No project shall be provided rail freight assistance under this section unless the line of railroad related to the project is certified by the railroad as having carried more than 20 carloads per mile during the most recent year of operation of service on such line. In a case where the railroad is no longer in existence, the applicant shall provide such information in the manner prescribed by the Secretary. The Secretary may waive the requirement of this paragraph upon a determination that the line of railroad is contractually guaranteed at least 40 carloads per mile for each of the first 2 years of operation if the proposed project is carried out, and the Secretary finds that there is a reasonable expectation that such contractual guarantee will be fulfilled.

"(2) No project shall be provided rail freight assistance under this section unless the ratio of benefits to costs for such project, calculated in accordance with the methodology established by the Secretary under subsection (n), is greater than 1.0.

"(d) A State shall use assistance provided under subsection (b) of this section as follows:

"(1) The State may grant or loan funds to the owner of rail properties or operator of rail service related to the project.

Grants.
Loans.

"(2) The State shall determine all financial terms and conditions of a grant or loan, except that the timing of all advances with respect to grants under this subsection shall be in accordance with Department of Treasury regulations.

Loans.
Grants.

"(3) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury in accordance with section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use such funds and all accumulated interest to make further loans or grants under subsection (b) of this section in the same manner and under the same conditions as if they were originally granted to the State by the Secretary. The State may, at any time, pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the rail freight assistance program established by this section, such State shall pay the Federal share of any unused funds and accumulated interest to the Secretary.

"(4) The State, to the maximum extent possible, shall encourage the participation of shippers, railroads, and local communities in providing the State share of rail freight assistance funds.

"(e) The Federal share of the costs of any rail freight assistance project shall be 50 percent, except that in the case of assistance provided under subsection (b)(2), the Federal share shall be 70 percent. The State share of the costs may be provided in cash or through any of the following benefits, to the extent that such benefits would not otherwise be provided:

Taxes.

"(1) Forgiveness of taxes imposed on a railroad or on its properties.

Real property.

"(2) The provision by the State or by any person on behalf of such State, for use in its rail freight assistance program, of real property or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service.

"(3) Trackage rights secured by the State for a railroad.

"(4) The cash equivalent of State salaries for State public employees working in the State rail freight assistance program, but not including overhead and general administrative costs.

A State may provide more than its required percentage share of the cost of its rail freight assistance program. If a State, or any person on behalf of a State, provides more than such State's percentage share of the cost of its rail freight assistance program during any fiscal year, the amount in excess of such share shall be applied toward such State's share of the costs of its program for subsequent fiscal years.

"(f) A State seeking financial assistance for rail freight assistance projects described in subsection (b) shall apply, in the form required by the Secretary, for such assistance by January 1 of the fiscal year for which the funds have been appropriated, except in fiscal years in which authorizations of appropriations have not been enacted as of the first day of the fiscal year, in which case application must be made within 90 days after the date of enactment of legislation authorizing appropriations for that fiscal year. In considering applications for rail freight assistance projects under subsection (b), the Secretary shall consider the following:

"(1) The percentage of lines identified to the Interstate Commerce Commission by rail carriers for abandonment or potential abandonment within a State.

"(2) The likelihood of future abandonments within a State.

"(3) The ratio of benefits to costs for a proposed project calculated in accordance with the methodology established by the Secretary under subsection (n).

"(4) The likelihood that the line will continue operating with rail freight assistance.

"(5) The impact of rail bankruptcies, rail restructuring, and rail mergers on the State applying for assistance.

"(g) On the first day of the fiscal year, each State shall be entitled to $36,000 of the funds available for expenditure pursuant to subsection (q) of this section during the fiscal year to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (a) of this section, or to carry out projects described in subsection (b) (1), (2), or (3), as designated by the State, if such projects meet the requirements of subsection (c)(2). Each State must apply for such funds on or before the first day of the fiscal year, except in fiscal years in which authorizations of appropriations have not been enacted as of the first day of the fiscal year, in which case application must be made within 60 days after the date of enactment of legislation authorizing appropriations for that fiscal year. Upon receipt of an application under this subsection, the Secretary shall consider the application and notify the State submitting such an application as to its approval or disapproval within 60 days. Funds provided under this subsection shall remain available to a State for obligation for the first 3 months after the end of the fiscal year for which such funds have been made available. Any funds which have not been timely applied for under this subsection, or which have remained unobligated after the expiration of the period described in the previous sentence, shall be made available to the Secretary for rail freight assistance projects meeting the requirements of this section.

"(h) The Secretary shall establish such procedures as are necessary to ensure that funds available to the Secretary for use for rail freight assistance projects under subsection (b) are distributed by April 1 of the fiscal year for which such funds are appropriated. If any funds are not distributed by that date, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of such funds and the reasons for the delay in distribution.

Reports.

"(i) Each State shall retain a contingent interest (redeemable preference shares) for the Federal share of funds in any line receiving rail freight assistance under this section and may exercise the right to collect its share of the funds used for a such a line, if an application for abandonment of such line is filed under chapter 109 of title 49, United States Code, or if such line is abandoned, discontinued, sold, or disposed of in any way after it has received Federal assistance.

"(j) Two or more States which are eligible to receive rail freight assistance under this section may, where not in violation of State law, enter into an agreement to combine any portion of such assistance for purposes of conducting any project which is eligible for assistance under this section and which will benefit each State which is a party to such agreement.

Records.

"(k)(1) Each recipient of funds provided under this section, whether in the form of grants, subgrants, contracts, subcontracts, or other arrangements, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of such funds, the total cost of the project or undertaking in connection with which such funds were provided or used, the amount of that portion of the cost of the project which was supplied by other sources, and such other records as will facilitate an effective audit. Such records shall be maintained for 3 years after the completion of such a project or undertaking.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of receipts which, in the opinion of the Secretary or of the Comptroller General, may be related or pertinent to the grants, contracts, or other arrangements referred to in paragraph (1) of this subsection.

"(3) The Secretary and the Comptroller General shall regularly conduct, or cause to be conducted—

"(A) a financial audit, in accordance with generally accepted auditing standards; and

"(B) a performance audit of the activities and transactions assisted under this section, in accordance with generally accepted management principles.

Such audits may be conducted by independent certified or licensed public accountants and management consultants approved by the Secretary and the Comptroller General, and they shall be conducted in accordance with such rules and regulations as may be prescribed by the Comptroller General.

"(l) The Interstate Commerce Commission shall provide the Secretary with such information as the Secretary requests to assist in administering the program authorized by this section. The Commission shall provide the requested information within 30 days after receipt of any such request.

"(m) On or before August 1 of each year, each rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of title 49, United States Code, shall prepare, update, and submit to the Secretary a listing of those rail lines of such carrier which, based on level of usage, carried 5 million gross ton miles of freight or less per mile during the prior year.

"(n) The Secretary, no later than July 1, 1990, shall establish a methodology for calculating the ratio of benefits to costs of projects proposed under subsection (b), taking into consideration the need for equitable treatment of different regions of the United States and different commodities transported by rail. The establishment of such methodology shall be a matter committed to the Secretary's discretion.

"(o) No more than 15 percent of the funds provided under subsection (b) in any fiscal year shall be provided to any one State. No more than 20 percent of the funds provided under subsection (b) in any fiscal year shall be provided for any one project.

"(p) As used in this section, the term 'State' means any State in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under chapter 105 of title 49, United States Code, maintains any line of railroad.

Appropriation authorization.

"(q) There are authorized to be appropriated to the Secretary for the purposes of this section not to exceed $15,000,000 for fiscal year 1991. Such sums as are appropriated are authorized to remain available until expended. No funds are authorized to be appropriated under this subsection for any period after September 30, 1991.".

49 USC app. 1654 note.

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall take effect October 1, 1990.

Approved December 11, 1989.

LEGISLATIVE HISTORY—H.R. 422:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 17, considered and passed House.
Nov. 19, considered and passed Senate.

○

Public Law 101-214
101st Congress

An Act

To expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park near Fredericksburg, Virginia.

Dec. 11, 1989
[H.R. 875]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park Expansion Act of 1989.
Public lands.
16 USC 425k note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park Expansion Act of 1989".

16 USC 425k.

SEC. 2. REVISION OF PARK BOUNDARIES.

(a) Boundary Revision.—In furtherance of the purposes of the Act entitled "An Act to establish a national military park at and near Fredericksburg, Virginia, and to mark and preserve historical points connected with the battles of Fredericksburg, Spotsylvania Court House, Wilderness, and Chancellorsville, including Salem Church, Virginia", approved February 14, 1927 (44 Stat. 1091), the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park (hereinafter in this Act referred to as the "park") shall hereafter comprise the lands and interests in lands within the boundary generally depicted as "Proposed Park Boundary" on the maps entitled "Fredericksburg and Spotslyvania National Military Park", numbered 326-40075D/89, 326-40074E/89, 326-40069B/89, 326-40070D/89, 326-40071C/89, 326-40072E/89, 326-40076A/89, and 326-40073D/89, and dated June 1989. The maps shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

Public information.

(b) Excluded Lands.—Lands and interests in lands within the boundary depicted on the maps referred to in subsection (a) as "Existing Park Boundary" but outside of the boundary depicted as "Proposed Park Boundary" are hereby excluded from the park, in accordance with the provisions of subsection 3(b). The Secretary of the Interior (hereinafter referred to as the "Secretary") may relinquish to the Commonwealth of Virginia exclusive or concurrent legislative jurisdiction over lands excluded from the park by this section by filing with the Governor a notice of relinquishment. Such relinquishment shall take effect upon acceptance thereof, or as the laws of the Commonwealth may otherwise provide.

16 USC 425*l*.

SEC. 3. ACQUISITIONS AND CONVEYANCES.

Gifts and property.
Real property.

(a) Acquisition.—The Secretary is authorized to acquire lands and interests in lands within the park, by donation, purchase with donated or appropriated funds or by exchange.

(b) Conveyance of Lands Excluded From Park.—(1) The Secretary is authorized, in accordance with applicable existing law, to exchange Federal lands and interests excluded from the park pursuant to subsection 2(b) for the purpose of acquiring lands within the park boundary.

(2) If any such Federal lands or interests are not exchanged within five years after the date of enactment of this Act, the Secretary may sell any or all such lands or interests to the highest bidder, in accordance with such regulations as the Secretary may prescribe, but any such conveyance shall be at not less than the fair market value of the land or interest, as determined by the Secretary.

Historic preservation.

(3) All Federal lands and interests sold or exchanged pursuant to this subsection shall be subject to such terms and conditions as will assure the use of the property in a manner which, in the judgment of the Secretary, will protect the battlefield setting. Notwithstanding any other provision of law, the net proceeds from any such sale or exchange shall be used, subject to appropriations, to acquire lands and interests within the park.

(c) Alternative Access.—In order to facilitate the acquisition by the United States of existing easements or rights of access across Federal lands within the park and to provide the owners of such easements or rights of access with alternative rights of access across nonpark lands, the Secretary may acquire, by donation, purchase with donated or appropriated funds, or exchange, interests in land of similar estate across lands which are not within the park. With or without the acceptance of payment of cash to equalize the values of the properties, the Secretary may convey such nonpark lands or interests in lands to the holders of such existing easements or rights of access across Federal lands within the park in exchange for their conveyance to the United States of such easements or rights. Nothing in this Act shall prohibit the Secretary from acquiring any outstanding easements or rights of access across Federal lands by donation, purchase with donated or appropriated funds or by exchange.

Gifts and property.
Historic preservation.

(d) Conservation Easements.—The Secretary is authorized to accept donations of conservation easements on lands adjacent to the park. Such conservation easements shall have the effect of protecting the scenic and historic resources on park lands and the adjacent lands or preserving the undeveloped or historic appearance of the park when viewed from within or without the park.

(e) Other Provisions.—Within the area bounded by the Orange Turnpike, the Orange Plank Road, and McLaws Drive no improved property (as defined in section 4) may be acquired without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the park.

16 USC 425n.
Real property.

SEC. 4. RETAINED RIGHTS.

(a) Retention of Use and Occupancy.—With the exception of property which the Secretary determines is necessary for development or public use, the owner or owners of improved property acquired pursuant to this Act may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a definite term of not more than twenty-five years, or for a term ending at the death of the owner or the owner's spouse. The owner shall elect the term to be reserved, except that if the owner is a corporation, trust, partnership, or any entity other than an individual, the term shall not exceed twenty-five years. Ownership shall be determined as of June 1, 1989. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value of the right retained by the owner.

(b) TERMS AND CONDITIONS.—Any rights retained pursuant to this section shall be subject to such terms and conditions as the Secretary may prescribe and may be terminated by the Secretary upon his determination and after reasonable notice to the owner thereof that such property is being used for any purpose which is incompatible with the administration, protection, or public use of the park. Such right shall terminate by operation of law upon notification of the owner by the Secretary and tendering to the owner an amount equal to the fair market value of that portion of the right which remains unexpired.

(c) DEFINITION.—As used in this section, the term "improved property" means a year-round noncommercial single-family dwelling together with such land, in the same ownership as the dwelling, as the Secretary determines is reasonably necessary for the enjoyment of the dwelling for single-family residential use.

SEC. 5. INTERPRETATION.

16 USC 425n.

In administering the park, the Secretary shall take such action as is necessary and appropriate to interpret, for the benefit of visitors to the park and the general public, the battles of Fredericksburg, Chancellorsville, Spotsylvania Courthouse, and the Wilderness in the larger context of the Civil War and American history, including the causes and consequences of the Civil War and including the effects of the war on all the American people, especially on the American South.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

16 USC 425o.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved December 11, 1989.

LEGISLATIVE HISTORY—H.R. 875:

HOUSE REPORTS: No. 101-144 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-220 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
July 17, considered and passed House.
Nov. 21, considered and passed Senate, amended. House concurred in Senate amendments.

○

Public Law 101-215
101st Congress

An Act

Dec. 11, 1989
[H.R. 3696]

To provide survival assistance to victims of civil strife in Central America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SURVIVAL ASSISTANCE.

ealth and
edical care.

(a) AUTHORIZATION.—The Agency for International Development shall use unobligated funds made available pursuant to section 8(a) of Public Law 100-276 to provide medical care and other relief for noncombatant victims of civil strife in Central America. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help orphans, and otherwise provide assistance for noncombatants who have been physically injured or displaced by civil strife in Central America. Priority shall be given to those with the greatest needs for assistance.

oluntarism.

(b) USE OF PVO'S AND INTERNATIONAL RELIEF ORGANIZATIONS.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as Catholic Relief Services, the International Committee of the Red Cross, CARE, the United Nations Children's Fund, the United Nations High Commissioner for Refugees, Partners of the Americas, and the Pan American Health Organization.

oluntarism.

(c) ASSISTANCE IN NICARAGUA.—Not more than one-half of the assistance provided under this section may be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of the assistance pursuant to this section may be provided to or through the Government of Nicaragua.

Approved December 11, 1989.

LEGISLATIVE HISTORY—H.R. 3696:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 20, considered and passed House.
Nov. 21, considered and passed Senate.

○

39-139 O - 89 (215)

Public Law 101-216
101st Congress

An Act

To amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes.

Dec. 11, 1989
[H.R. 1495]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Arms Control and Disarmament Amendments Act of 1989. 22 USC 2251 note.

This Act may be cited as the "Arms Control and Disarmament Amendments Act of 1989".

TITLE I—ARMS CONTROL AND DISARMAMENT AGENCY

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1988.

22 USC 2589.

Section 49(a) of the Arms Control and Disarmament Act is amended to read as follows:

"SEC. 49. (a) To carry out the purposes of this Act, there are authorized to be appropriated—

"(A) $36,000,000 for the fiscal year 1990 and $37,316,000 for the fiscal year 1991; and

"(B) such additional amounts as may be necessary for fiscal years 1990 and 1991 for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.".

SEC. 102. DUTIES OF THE DEPUTY DIRECTOR.

Section 23 of the Arms Control and Disarmament Act (22 U.S.C. 2563) is amended in the second sentence to read as follows: "The Deputy Director shall have direct responsibility, under the supervision of the Director, for the administrative management of the Agency, intelligence-related activities, security, and the Special Compartmental Intelligence Facility, and shall perform such other duties and exercise such other powers as the Director may prescribe.".

SEC. 103. DUTIES OF THE SPECIAL REPRESENTATIVES.

(a) IN GENERAL.—Section 27 of the Arms Control and Disarmament Act (22 U.S.C. 2567) is amended by striking out "who shall perform" and all that follows through the period and inserting in lieu thereof the following: ", one of whom should serve as special representative for conventional arms control negotiations, and the other should serve as special representative and chief science advisor to the Director. The two Special Representatives shall perform their duties and exercise their powers under the direction of the President and the Secretary of State, acting through the Director.".

22 USC 2567 note.

(b) APPLICATION.—The amendment made by subsection (a) shall apply with respect to individuals who are appointed as Special Representatives on or after the date of enactment of this Act.

Reports.
22 USC 2565 note.

SEC. 104. ARMS CONTROL IMPLEMENTATION AND COMPLIANCE RESOLUTION.

The Director of the United States Arms Control and Disarmament Agency should study, and report to the Congress on, the advisability of establishing in the Agency an arms control implementation and compliance resolution bureau, or other organizational unit, that would be responsible for—

(1) managing the implementation of existing and future arms control agreements;

(2) coordinating the activities of the Special Verification Commission and the Standing Consultative Commission; and

(3) preparing comprehensive analyses and policy positions regarding the effective resolution of arms control compliance questions.

SEC. 105. ARMS CONTROL VERIFICATION.

International agreements.
Union of Soviet Socialist Republics.
22 USC 2577a.

(a) ESTABLISHMENT OF WORKING GROUP.—The President should establish a working group—

(1) to examine verification approaches to a strategic arms reduction agreement and other arms control agreements; and

(2) to assess the relevance for such agreements of the verification provisions of the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987).

(b) INFORMATION AND DATA BASE.—(1) The Agency shall allocate sufficient resources to develop and maintain a comprehensive information and data base on verification concepts, research, technologies, and systems. The Agency shall collect, maintain, analyze, and disseminate information pertaining to arms control verification and monitoring, including information regarding—

(A) all current United States bilateral and multilateral arms treaties; and

(B) proposed, prospective, and potential bilateral or multilateral arms treaties in the areas of nuclear, conventional, chemical, and space weapons.

(2) The Agency shall seek to improve United States verification and monitoring activities through the monitoring and support of relevant research and analysis.

Reports.

(3) The Agency shall provide detailed information on the activities pursuant to this section in its annual report to the Congress.

SEC. 106. EXPENSES OF TRAVEL CONTINUING BEYOND THE END OF THE FISCAL YEAR.

Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by inserting after "personal effects" the following: "(including any such travel or transportation any part of which begins in one fiscal year pursuant to travel orders issued in that fiscal year, but which is completed after the end of that fiscal year)".

SEC. 107. REPORTING REQUIREMENT ON PROSPECTS FOR CONVERSION OF UNITED STATES DEFENSE INDUSTRIES.

The Director of the United States Arms Control and Disarmament Agency, in consultation with the Secretary of Defense and the Secretary of Commerce, shall study, and (not later than 180 days after the date of enactment of this Act) submit to the Congress a report, on concrete steps which could be taken to improve prospects for conversion of portions of United States defense industries to nondefense-related activities as opportunities are presented through the achievement of successful arms control agreements.

TITLE II—ON-SITE INSPECTION ACTIVITIES

SEC. 201. ON-SITE INSPECTION AGENCY.

The Arms Control and Disarmament Act is amended by adding at the end the following:

"TITLE V—ON-SITE INSPECTION ACTIVITIES

"SEC. 61. FINDINGS.

22 USC 2595.

"The Congress finds that—

"(1) under this Act, the United States Arms Control and Disarmament Agency is charged with the 'formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security';

"(2) as defined in this Act, the terms 'arms control' and 'disarmament' mean 'the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement to establish an effective system of international control';

"(3) the On-Site Inspection Agency was established in 1988 pursuant to the INF Treaty to implement, on behalf of the United States, the inspection provisions of the INF Treaty;

"(4) on-site inspection activities under the INF Treaty include—

"(A) inspections in the Soviet Union, Czechoslovakia, and the German Democratic Republic,

"(B) escort duties for Soviet teams visiting the United States and the Basing Countries,

"(C) establishment and operation of the Portal Monitoring Facility in the Soviet Union, and

"(D) support for the Soviet inspectors at the Portal Monitoring Facility in Utah;

"(5) the personnel of the On-Site Inspection Agency include civilian technical experts, civilian support personnel, and members of the Armed Forces; and

"(6) the senior officials of the On-Site Inspection Agency include representatives from the United States Arms Control and Disarmament Agency and the Department of State.

"SEC. 62. POLICY COORDINATION CONCERNING IMPLEMENTATION OF ON-SITE INSPECTION PROVISIONS.

22 USC 2595a.

"(a) INTERAGENCY COORDINATION.—OSIA should receive policy guidance which is formulated through an interagency mechanism established by the President.

"(b) ROLE OF THE SECRETARY OF DEFENSE.—The Secretary of Defense should provide to OSIA appropriate policy guidance formulated through the interagency mechanism described in subsection (a) and operational direction, consistent with section 113(b) of title 10, United States Code.

"(c) ROLE OF THE DIRECTOR.—The Director should provide to the interagency mechanism described in subsection (a) appropriate recommendations for policy guidance to OSIA consistent with sections 2(d), 22, and 34(c) of this Act.

22 USC 2595b.

"SEC. 63. AUTHORIZATIONS OF APPROPRIATIONS FOR ON-SITE INSPECTION AGENCY.

"There are authorized to be appropriated $49,830,000 for fiscal year 1990 and $48,831,000 for fiscal year 1991 for the expenses of the On-Site Inspection Agency in carrying out on-site inspection activities pursuant to the INF Treaty.

22 USC 2595c.

"SEC. 64. DEFINITIONS.

"As used in this title—

"(1) the term 'INF Treaty' means the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987); and

"(2) the term 'OSIA' means the On-Site Inspection Agency established by the President, or such other agency as may be designated by the President to carry out the on-site inspection provisions of the INF Treaty.".

Approved December 11, 1989.

LEGISLATIVE HISTORY—H.R. 1495 (S. 1868):

HOUSE REPORTS: No. 101-72, Pt. 1 (Comm. on Foreign Affairs) and Pt. 2 (Comm. on Armed Services).
SENATE REPORTS: No. 101-195 accompanying S. 1868 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 19, Oct. 12, considered and passed House.
Nov. 17, considered and passed Senate, amended.
Nov. 19, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Dec. 11, Presidential statement.

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Public Law 101-217
101st Congress

An Act

To clarify the Food Security Act of 1985.

Dec. 11, 1989
[H.R. 3620]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agriculture and agricultural commodities.

SECTION 1. AMENDMENT AFFECTING THE 1989 CROPS.

Effective only for the 1989 crops, section 1001(5)(D) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(D)) is amended to read as follows:

"(D)(i) Except as provided in clause (ii), any person that conducts a farming operation to produce a crop subject to limitations under this section as a tenant that rents the land for cash (or a crop share guaranteed as to the amount of the commodity to be paid in rent) and that makes a significant contribution of active personal management but not of personal labor shall be considered the same person as the landlord unless the tenant makes a significant contribution of equipment used in the farming operation.

(ii) A tenant that because of any act or failure to act would otherwise be considered the same person as the landlord under clause (i) shall not be considered the same person as the landlord if the Secretary has at any time made a determination, for purposes of this section, regarding the number of persons with respect to the tenant's operation on such land for the 1989 crop year and the landlord did not consent to or knowingly participate in such act or failure to act.

(iii) Any tenant that would be considered to be the same person as the landlord but for the operation of clause (ii) shall be eligible to receive any payment specified in paragraph (1) or (2) or subtitle D of title XII with respect to such land only to the extent that the tenant would be eligible for such payments if the tenant were to be considered the same person as the landlord under the regulations in place immediately prior to the enactment of this subparagraph.".

SEC. 2. AMENDMENT AFFECTING THE 1990 CROPS.

Effective only for the 1990 crops, section 1001(5)(D) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(D)) is amended to read as follows:

"(D) Any person that conducts a farming operation to produce a crop subject to limitations under this section as a tenant that rents the land for cash (or a crop share guaranteed as to the amount of the commodity to be paid in rent) and that makes a significant contribution of active personal management but not of personal labor shall be ineligible to receive any payment specified in paragraph (1) or (2) or subtitle D of title XII with respect to such land unless the tenant makes a significant contribution of equipment used in the farming operation.".

7 USC 1308 note.

SEC. 3. EQUITABLE RELIEF.

Nothing in this Act shall be construed in any way to limit the authority of the Secretary of Agriculture to provide equitable relief under any provision of law.

Approved December 11, 1989.

LEGISLATIVE HISTORY—H.R. 3620:

HOUSE REPORTS: No. 101-358 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 14, considered and passed House.
Nov. 20, considered and passed Senate, amended.
Nov. 21, House concurred in Senate amendments.

○

Public Law 101-218
101st Congress

An Act

To provide Federal assistance and leadership to a program of research, development, and demonstration of renewable energy and energy efficiency technologies, and for other purposes.

Dec. 11, 1989
[S. 488]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989".

Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989.
Business and industry.
Conservation.
Corporations.
42 USC 12001 note.
42 USC 12001.

SEC. 2. FINDING, PURPOSE, AND GENERAL AUTHORITY.

(a) FINDING.—The Congress finds that it is in the national security and economic interest of the United States to foster greater efficiency in the use of available energy supplies and greater use of renewable energy technologies.

(b) PURPOSE.—It is the purpose of this Act to authorize the Secretary of Energy, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920) and other law applicable to the Secretary, to pursue an aggressive national program of research, development, and demonstration of renewable energy and energy efficiency technologies in order to ensure a stable and secure future energy supply by—

(1) achieving as soon as practicable cost competitive use of those technologies without need of Federal financial incentives;

(2) establishing long-term Federal research goals and multiyear funding levels;

(3) directing the Secretary to undertake initiatives to improve the ability of the private sector to commercialize in the near term renewable energy and energy efficiency technologies; and

(4) fostering collaborative research and development efforts involving the private sector through government support of a program of joint ventures.

(c) GENERAL AUTHORITY.—The Secretary, acting in accordance with the authority contained in the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901-5920) and other law applicable to the Secretary—

(1) is authorized and directed to—

(A) pursue a program of research, development, and demonstration, including the use of joint ventures with the private sector, to achieve the purpose of this Act, including the goals established under section 4; and

(B) undertake joint ventures as provided in section 6; and

(2) is authorized to undertake, from time to time, joint ventures in technology areas other than those set forth in section 6(c), subject to the conditions set forth in section 6(b).

SEC. 3. DEFINITIONS.

42 USC 12002.

As used in this Act—

(1) the term "invention" means an invention or discovery that is patented or for which a patent may be obtained under title 35, United States Code, or any novel variety of plant that is protected or for which plant variety protection may be obtained under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) and that is conceived or reduced to practice as a result of work under an agreement entered into under this Act;

(2) "joint venture" means any agreement entered into under this Act by the Secretary with more than one or a consortium of non-Federal persons (including a joint venture under the National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.)) for cost-shared research, development, or demonstration of technologies, but does not include procurement contracts, grant agreements, or cooperative agreements as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code;

(3) the term "non-Federal person" means an entity located in the United States, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including—

(A) a for-profit business;
(B) a private foundation;
(C) a nonprofit organization such as a university;
(D) a trade or professional society; and
(E) a unit of State or local government;

(4) the term "Secretary" means the Secretary of Energy;

(5) the term "small business", with respect to a participant in any joint venture under this Act, means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632(a)) for the Standard Industrial Classification (SIC) code designated by the Secretary of Energy as the primary business activity to be undertaken in the venture; and

(6) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

42 USC 12003.

SEC. 4. NATIONAL GOALS AND MULTI-YEAR FUNDING FOR FEDERAL WIND, PHOTOVOLTAICS, AND SOLAR THERMAL PROGRAMS.

(a) NATIONAL GOALS.—The following are declared to be the national goals for the wind, photovoltaics, and solar thermal energy programs being carried out by the Secretary:

(1) WIND.—(A) In general, the goals for the Wind Energy Research Program include improving design methodologies and developing more reliable and efficient wind turbines to increase the cost competitiveness of wind energy. Research efforts shall emphasize—

(i) activities that address near-term technical problems and assist private sector exploitation of market opportunities of the wind energy industry;

(ii) developing technologies such as advanced airfoils and variable speed generators to increase wind turbine output and reduce maintenance costs by decreasing structural stress and fatigue;

(iii) increasing the basic knowledge of aerodynamics, structural dynamics, fatigue, and electrical systems interactions as applied to wind energy technology; and

(iv) improving the compatibility of electricity produced from wind farms with conventional utility needs.

(B) Specific goals for the Wind Energy Research Program shall be to—

(i) reduce average wind energy costs to 3 to 5 cents per kilowatt hour by 1995;

(ii) reduce capital costs of new wind energy systems to $500 to $750 per kilowatt of installed capacity by 1995;

(iii) reduce operation and maintenance costs for wind energy systems to less than one cent per kilowatt hour by 1995; and

(iv) increase capacity factors for new wind energy systems to 25 to 35 percent by 1995.

(2) PHOTOVOLTAICS.—(A) In general, the goals of the Photovoltaic Energy Systems Program shall include improving the reliability and conversion efficiencies of and lowering the costs of photovoltaic conversion. Research efforts shall emphasize advancements in the performance, stability, and durability of photovoltaic materials.

(B) Specific goals of the Photovoltaic Energy Systems Program shall be to—

(i) improve operational reliability of photovoltaic modules to 30 years by 1995;

(ii) increase photovoltaic conversion efficiencies by 20 percent by 1995;

(iii) decrease new photovoltaic module direct manufacturing costs to $800 per kilowatt by 1995; and

(iv) increase cost efficiency of photovoltaic power production to 10 cents per kilowatt hour by 1995.

(3) SOLAR THERMAL.—(A) In general, the goal of the Solar Thermal Energy Systems Program shall be to advance research and development to a point where solar thermal technology is cost-competitive with conventional energy sources, and to promote the integration of this technology into the production of industrial process heat and the conventional utility network. Research and development shall emphasize development of a thermal storage technology to provide capacity for shifting power to periods of demand when full insolation is not available; improvement in receivers, energy conversion devices, and innovative concentrators using stretch membranes, lenses, and other materials; and exploration of advanced manufacturing techniques.

(B) Specific goals of the Solar Thermal Energy Systems Program shall be to—

(i) reduce solar thermal costs for industrial process heat to $9.00 per million Btu by 1995; and

(ii) reduce average solar thermal costs for electricity to 4 to 5 cents per kilowatt hour by 1995.

(4) OTHER TECHNOLOGIES.—The Secretary shall submit to the Congress, as part of the first report submitted under section 9, recommendations for specific cost goals and other pertinent goals for 1995 for Department of Energy research, development, and demonstration programs in Biofuels Energy Systems, Hydrogen Energy Systems, Solar Buildings Energy Systems,

Ocean Energy Systems, Geothermal Energy Systems, Low-Head Hydro, and Energy Storage Systems.

Reports.

(b) AMENDED GOALS.—Whenever the Secretary determines that any of the goals established under this section is no longer appropriate, the Secretary shall notify Congress, as part of a report submitted under section 9, of the reason for the determination and provide an amended goal that is consistent with the purpose stated in section 2(b).

(c) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary for the following renewable energy research, development, and demonstration programs: the Wind Energy Research Program, the Photovoltaic Energy Systems Program, the Solar Thermal Energy Systems Program, the Biofuels Energy Systems Program, the Hydrogen Energy Systems Program, the Solar Buildings Energy Systems Program, the Ocean Energy Systems Program, and the Geothermal Energy Systems Program—

(1) not to exceed $113,000,000 for fiscal year 1991, of which—

(A) not to exceed $39,000,000 shall be available for the Photovoltaic Energy Systems Program;

(B) not to exceed $19,000,000 shall be available for the Geothermal Energy Systems Program; and

(C) not to exceed $4,000,000 shall be available for the Hydrogen Energy Systems Program;

(2) not to exceed $121,000,000 for fiscal year 1992, of which—

(A) not to exceed $40,000,000 shall be available for the Photovoltaic Energy Systems Program;

(B) not to exceed $20,500,000 shall be available for the Geothermal Energy Systems Program; and

(C) not to exceed $5,000,000 shall be available for the Hydrogen Energy Systems Program; and

(3) not to exceed $124,000,000 for fiscal year 1993, of which—

(A) not to exceed $40,000,000 shall be available for the Photovoltaic Energy Systems Program;

(B) not to exceed $23,000,000 shall be available for the Geothermal Energy Systems Program; and

(C) not to exceed $6,000,000 shall be available for the Hydrogen Energy Systems Program.

Each of the President's annual budget requests submitted to Congress after the date of enactment of this Act shall include as separate line items each of the categories of renewable energy programs described in this subsection.

42 USC 12004.

SEC. 5. ENERGY EFFICIENCY AUTHORIZATIONS.

There are authorized to be appropriated to the Secretary for the following energy efficiency research, development, and demonstration programs: transportation, industrial, buildings and community systems, multi-sector, and policy and management—

(1) not to exceed $201,100,000 for fiscal year 1991, of which—

(A) not to exceed $68,300,000 shall be available for the transportation program; and

(B) not to exceed $53,500,000 shall be available for the industrial program;

(2) not to exceed $210,600,000 for fiscal year 1992, of which—

(A) not to exceed $71,000,000 shall be available for the transportation program; and

(B) not to exceed $54,700,000 shall be available for the industrial program; and

(3) not to exceed $225,000,000 for fiscal year 1993, of which—

(A) not to exceed $73,900,000 shall be available for the transportation program; and

(B) not to exceed $56,900,000 shall be available for the industrial program.

SEC. 6. JOINT VENTURES.

42 USC 12005.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—For purposes of this section, Congress finds that joint ventures can—

(A) improve coordination in technology development among firms in industries attempting to commercialize renewable energy and energy efficiency technologies;

(B) facilitate transfer of renewable energy and energy efficiency technologies, including critical enabling technologies, to the private sector; and

(C) enhance the ability of domestic firms to compete with foreign enterprises in sales of renewable energy and energy efficiency technologies.

(2) PURPOSE.—The purpose of this section is to direct the Secretary to make use of joint ventures to further commercialization of renewable energy and energy efficiency technologies.

(b) JOINT VENTURES.—

(1) ESTABLISHMENT.—The Secretary shall solicit proposals for joint ventures in each of the technology areas under subsection (c). The Secretary shall select at least one joint venture in each of those technology areas, unless no qualified proposals in that area are received. Each joint venture selected under this section shall include at least one for-profit business. Research and development activities supported under this section shall be performed in the United States. Each joint venture under this section shall require the manufacture and reproduction, substantially within the United States, for commercial sale of any invention that may result from the joint venture.

(2) COST SHARING.—

(A) The Secretary shall require at least 50 percent of the costs directly and specifically related to any joint venture under this section, including cash, personnel, services, equipment, and other resources, to be provided from non-Federal sources.

(B) The Secretary may reduce the amount of the costs required to be provided by any joint venture under subparagraph (A) upon application if the Secretary determines that—

(i) the joint venture is composed exclusively of small businesses or of small businesses and nonprofit entities; and

(ii) the reduction is appropriate and necessary for the successful operation of the proposed joint venture.

(C) The extent of cost sharing provided under proposals shall be a criterion for selection of proposals under this section.

(3) ADVISORY COMMITTEE.—(A) The Secretary shall establish an Advisory Committee on Renewable Energy and Energy Efficiency Joint Ventures (hereafter in this Act referred to as the "Advisory Committee") to advise the Secretary on the develop-

ment of the solicitation and evaluation criteria for joint ventures, and on otherwise carrying out his responsibilities under this section. The Secretary shall appoint members to the Advisory Committee, including at least one member representing—

(i) the Secretary of Commerce;

(ii) the National Laboratories of the Department of Energy;

(iii) the Solar Energy Research Institute;

(iv) the Electric Power Research Institute;

(v) the Gas Research Institute;

(vi) the National Institute of Building Sciences;

(vii) the National Institute of Standards and Technology;

(viii) associations of firms in the major renewable energy manufacturing industries; and

(ix) associations of firms in the major energy efficiency manufacturing industries.

The Advisory Committee may establish such subcommittees as it considers necessary to carry out this Act.

(B) The Advisory Committee, within 120 days after its establishment, shall provide the Secretary with recommendations regarding the structure and selection criteria for a solicitation of proposals for joint ventures. The Advisory Committee shall also advise the Secretary from time to time on the implementation of the joint venture program. Recommendations of the Advisory Committee shall be available to the public.

Public information.

(4) DRAFT SOLICITATION AND PUBLIC COMMENT.—The Secretary shall issue a draft solicitation for joint ventures by September 30, 1990. After such draft solicitation has been issued, the Secretary shall provide for a period of public comment before the issuance of a final solicitation.

(5) PROTECTION OF PROPRIETARY RIGHTS.—Joint ventures, participants in joint ventures, and inventions developed as a result of joint ventures under this section shall be subject to section 5 of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5104).

(c) TECHNOLOGIES.—

(1) PHOTOVOLTAICS TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of photovoltaic conversion of solar energy in accordance with the provisions of this paragraph.

(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for photovoltaic conversion of solar energy so as to achieve, to the maximum extent practicable, the goals of the Photovoltaic Energy Systems Program set forth in section 4(a)(2), as those goals may be amended under section 4(b).

Appropriation authorization.

(C) There are authorized to be appropriated to the Secretary not to exceed $2,700,000 for each of the fiscal years 1991, 1992, and 1993 to carry out this paragraph.

(2) WIND ENERGY TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of the conversion of wind energy in accordance with the provisions of this paragraph.

(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the conversion of wind energy so as to achieve, to the maximum extent practicable, the goals of the Wind Energy Research Program set forth in section 4(a)(1), as those goals may be amended under section 4(b).

Appropriation authorization.

(C) There are authorized to be appropriated to the Secretary not to exceed $2,700,000 for each of the fiscal years 1991, 1992, and 1993 to carry out this paragraph.

(3) SOLAR THERMAL TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of the use of solar thermal energy in accordance with the provisions of this paragraph.

(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the use of solar thermal energy so as to achieve, to the maximum extent practicable, the goals of the Solar Thermal Energy Systems Program set forth in section 4(a)(3), as those goals may be amended under section 4(b).

Appropriation authorization.

(C) There are authorized to be appropriated to the Secretary not to exceed $2,400,000 for each of the fiscal years 1991, 1992, and 1993 to carry out this paragraph.

(4) FACTORY-MADE HOUSING.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture in order to establish regional projects to develop or demonstrate techniques to improve the energy performance of factory-made housing offered by United States firms. In locating projects under this paragraph, the Secretary shall consider regional differences in housing needs, housing design, construction technique, marketing practices, and construction materials.

(B) Projects supported pursuant to this paragraph shall be designed to demonstrate state-of-the-art product quality, energy efficiency, and adaptability to renewable forms of energy of factory-made housing offered for sale in the United States. Such projects shall—

(i) be structured to demonstrate improvements in housing design, fabrication, delivery systems, construction processes, and marketing;

(ii) develop a detailed characterization of the needs of the home building industry;

(iii) establish a close working relationship with all sectors of the home building industry; and

(iv) be coordinated to pool and conserve resources.

Appropriation authorization.

(C) There are authorized to be appropriated to the Secretary not to exceed $5,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out this paragraph.

Urban areas.

(5) ADVANCED DISTRICT COOLING TECHNOLOGY.—(A) The Secretary shall solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of advanced district cooling technologies that are applicable in cities with high cooling loads, in accordance with the provisions of this paragraph.

State and local governments.

(B) The purpose of joint ventures supported under this paragraph shall be to develop technical strategies for decreasing the capital cost and increasing the energy efficiency of major district heating and cooling system components and to assist in making district cooling available to local governments.

(C) The Secretary shall select a city or cities for application of advanced district cooling technologies developed by joint ventures supported under this paragraph. The activities to be carried out in such application shall include district cooling assessment, feasibility, and engineering design studies.

Appropriation authorization.

(D) There are authorized to be appropriated to the Secretary not to exceed $1,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out this paragraph.

(d) SECRETARIAL DISCRETION.—(1) If the Secretary, based on the recommendations of the Advisory Committee under subsection (b)(3)(B), with respect to a technology described in paragraph (1), (2), (3), (4), or (5) of subsection (c), determines, that—

(A) there is insufficient private sector interest in joint ventures for the demonstration of such technology to satisfy the requirement of subsection (b)(2); or

(B) such joint ventures will substantially substitute for research, development, and demonstration activities already financed by the private sector,

then the Secretary shall not be subject to the requirements of this section with respect to the technology described in such paragraph, and the Secretary shall notify Congress and provide a written explanation of the reasons for the determination.

(2) Promptly after notifying the Congress under paragraph (1), the Secretary shall consult with the Advisory Committee, and, based on the recommendations of such Committee, shall promptly transmit to Congress a plan for the selection of a substitute field or technology in which to solicit joint ventures that develop or demonstrate, consistent with this section, an alternative renewable energy or energy efficiency technology so as to accomplish the purpose of this Act. Any unexpended funds authorized to be appropriated under subsection (c) for joint ventures with respect to which a determination is made under paragraph (1) may be used for a substitute joint venture selected under this paragraph.

(3) When 30 calendar days have elapsed after transmittal of a plan under paragraph (2), the Secretary shall proceed with solicitations for joint ventures appropriate to that plan as if such joint ventures were required under subsection (c).

(e) ADDITIONAL JOINT VENTURES.—(1) The Secretary shall recommend to the Congress three additional joint ventures in the fields of renewable energy or energy efficiency technologies for fiscal year 1993. Each proposed project shall be described in sufficient detail to support congressional authorization.

(2) In selecting proposed projects under this subsection, the Secretary shall consider the recommendations of the Advisory Committee, and shall take into account the extent to which such projects will contribute to earlier commercialization of key technologies than might not occur without Federal support under this subsection, and the extent to which such projects will contribute to the competitiveness of United States firms engaged in international trade in renewable energy or energy efficiency technologies.

(3) Joint ventures supported pursuant to a recommendation under this subsection shall be carried out as if they were required under subsection (c).

SEC. 7. RENEWABLE ENERGY EXPORTS.

(a) DISSEMINATION OF INFORMATION; ACCESS TO FOREIGN MARKETS.—Section 256(c)(2)(D) of the Energy Policy and Conservation Act (42 U.S.C. 6276(c)(2)(D)) is amended—

(1) in clause (i), by inserting after "commerce," the following: "and to potential end users, including other industry sectors in foreign countries such as health care, rural development, communications, and refrigeration, and others,"; and

Health and medical care.
Rural areas.
Communications and telecommunications.

(2) in clause (ii), by striking "export opportunities" and inserting in lieu thereof "export and export financing opportunities".

(b) AUTHORIZATION AND PROGRAM.—Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) The interagency group shall establish a program to inform other countries of the benefits of policies that would allow small facilities which produce renewable energy to compete effectively with producers of energy from nonrenewable sources.".

(c) REPORT, FUNCTIONS, AND AUTHORIZATIONS.—Section 256 of the Energy Policy and Conservation Act (42 U.S.C. 6276) is amended by adding at the end the following new subsections:

"(e) The interagency working group established under subsection (d) shall annually report to Congress, describing the actions of each agency represented by a member of the working group taken during the previous fiscal year to achieve the purposes of such working group and of this section. Such report shall describe the exports of renewable energy technology that have occurred as a result of such agency actions.

"(f)(1) The interagency working group shall—

"(A) establish, in consultation with representatives of affected industries, a plan to increase United States exports of renewable energy technologies, and include in such plan recommended guidelines for agencies that are represented on the working group with respect to the financing of, or other actions they can take within their programs to promote, exports of such renewable energy technologies;

"(B) develop, in consultation with representatives of affected industries, recommended administrative guidelines for Federal export loan programs to simplify application by firms seeking export assistance for renewable energy technologies from agencies implementing such programs; and

"(C) recommend specific renewable energy technology markets for primary emphasis by Federal export loan programs, development programs, and private sector assistance programs.

"(2) The interagency working group shall include a description of the plan established under paragraph (1)(A) in no later than the second report submitted under subsection (e), and shall include in subsequent reports a description of any modifications to such plan and of the progress in implementing the plan.

"(g) For purposes of this section, the term 'renewable energy' includes energy efficiency to the extent it is a part of a renewable energy system or technology.

Appropriation authorization.

"(h) There are authorized to be appropriated to the Secretary for activities of the interagency working group established under subsection (d) not to exceed—

"(1) $3,000,000 for fiscal year 1991;

"(2) $3,300,000 for fiscal year 1992; and
"(3) $3,600,000 for fiscal year 1993.".

SEC. 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY.

(a) DISSEMINATION OF INFORMATION.—Section 523 of the National Energy Conservation Policy Act (42 U.S.C. 8243) is amended by adding a new subsection (d) as follows:

"(d) In order to more widely disseminate information about the program under this part and under part 3 and the benefits of renewable energy and energy efficiency technology, the Secretary shall establish a program which includes site visits and technical briefings, to disseminate such information to Federal procurement officers and Federal loan officers. The Secretary shall utilize available funds for the program under this subsection.".

(b) DEPARTMENT OF DEFENSE HOUSING.—Section 2857(b)(1) of title 10, United States Code, is amended by striking "significant savings of fossil-fuel-derived energy" and inserting in lieu thereof "reduced energy costs".

22 USC 2194.

Grants.
Small business.

(c) OVERSEAS PRIVATE INVESTMENT CORPORATION LOANS.—Section 234(e) of the Foreign Assistance Act of 1961 is amended—

(1) in the first sentence, by inserting after "cooperatives" the following: "and including the initiation of incentives, grants, and studies for renewable energy and other small business activities"; and

(2) by adding at the end thereof the following new sentence: "Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.".

42 USC 12006.

SEC. 9. REPORTS.

(a) REPORT BY THE SECRETARY.—One year after the date of the enactment of this Act and annually thereafter, the Secretary shall report to Congress on the programs, projects, and joint ventures supported under this Act and the progress being made toward accomplishing the goals and purposes set forth in this Act.

(b) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—

(1) The Secretary, in consultation with the Advisory Committee, shall prepare a management plan to be administered and carried out by the Secretary in the conduct of activities under this Act.

(2) After opportunity for public comment and consideration, as appropriate, of such comment, the Secretary shall publish the plan.

(3) In addition to describing the Secretary's intentions for administering this Act, the plan shall include a comprehensive strategy for assisting the private sector—

(A) in commercializing the renewable energy and energy efficiency technologies developed under this Act; and

(B) in meeting competition from foreign suppliers of products derived from renewable energy and energy efficiency technologies.

(4) The plan shall address the role of federally-assisted research, development, and demonstration in the achievement of applicable national policy goals of the National Energy Policy Plan required under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321).

(5) The plan shall accompany the President's annual budget submission to the Congress.

(c) REPORT ON OPTIONS.—As part of the first report submitted under subsection (a), the Secretary shall submit to Congress a report analyzing options available to the Secretary under existing law to assist the private sector with the timely commercialization of wind, photovoltaic, solar thermal, biofuels, hydrogen, solar buildings, ocean, geothermal, low-head hydro, and energy storage renewable energy technologies and energy efficiency technologies through emphasis on development and demonstration assistance to specific technologies in the research, development, and demonstration programs of the Department of Energy that are near commercial application.

SEC. 10. NO ANTITRUST IMMUNITY OR DEFENSES.

42 USC 12007.

Nothing in this Act shall be deemed to convey to any person, partnership, corporation, or other entity immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law. As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

Approved December 11, 1989.

LEGISLATIVE HISTORY—S. 488 (H.R. 1216):

HOUSE REPORT: No. 101-308, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Energy and Commerce), accompanying H.R. 1216.
SENATE REPORT: No. 101-107 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 22, considered and passed Senate.
Nov. 17, H.R. 1216 considered and passed House; proceedings vacated and S. 488, amended, passed in lieu. Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol 25 (1989):
Dec. 11, Presidential statement.

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PUBLIC LAW 101-219—DEC. 12, 1989

IMPLEMENTATION OF COMPACT OF FREE ASSOCIATION WITH PALAU

Public Law 101-219
101st Congress

Joint Resolution

Dec. 12, 1989
[H.J. Res. 175]

To authorize entry into force of the Compact of Free Association between the United States and the Government of Palau, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—IMPLEMENTATION OF COMPACT OF FREE ASSOCIATION WITH PALAU

48 USC 1681 note.

SEC. 101. ENTRY INTO FORCE OF COMPACT.

Notwithstanding the provisions of Section 101(d)(1)(B) of Public Law 99-658, entry into force of the Compact of Free Association between the United States and Palau (set forth in title II of Public Law 99-658 and hereafter in this joint resolution referred to as the "Compact") in accordance with subsections (a) and (d) of section 101 of Public Law 99-658 (100 Stat. 3673) is hereby authorized—

(1) subject to the condition that the Compact, as approved by the Congress in Public Law 99-658, is approved by the requisite percentage of the votes cast in a referendum conducted pursuant to the Constitution of Palau, and such approval is free from any legal challenge, and

(2) upon expiration of 30 days, in which either the House of Representatives or the Senate of the United States is in session, after the President notifies the Committees on Interior and Insular Affairs and Foreign Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of the effective date of the Compact.

48 USC 1681 note.

SEC. 102. FISCAL PROCEDURES ASSISTANCE.

Upon request of the Government of Palau, the Secretary of the Interior shall provide assistance to the Government of Palau to develop and promulgate regulations for the effective expenditure of funds received pursuant to this joint resolution, Public Laws 99-658 and 99-239, or any other Act of Congress.

48 USC 1681 note.

SEC. 103. ANTIDRUG PROGRAM.

(a) PLAN.—The Department of the Interior shall develop, in cooperation with the Government of Palau and the National Drug Control Policy Office, a plan for an antidrug program in Palau. The plan shall be submitted to the Committees on Interior and Insular Affairs, Foreign Affairs, and Appropriations of the House of Representatives and the Committees on Energy and Natural Resources and Appropriations of the Senate by April 1, 1990. The plan shall: (1) identify the specific needs and costs of such an antidrug program; (2) shall identify all existing resources to be allocated for its implementation by the Government of the United States and the Government of Palau; and (3) shall recommend priority use for additional resources, assuming such resources are made available.

President of U.S.

(b) AGREEMENT.—Following completion of the plan, the President and the Government of Palau shall negotiate an agreement to facilitate implementation of the plan. Such agreement may include—

(1) that the Government of Palau may request, on a long-term or case-by-case basis, that the officers of United States law enforcement agencies may conduct investigations consistent with implementation of the plan in cooperation with the law enforcement agencies of the Government of Palau;

(2) that the Government of Palau or the Government of the United States may agree to provide specific resources, on a one-time or a multiyear basis, to strengthen the antidrug program; and

(3) a specific description of the technical assistance, training, and equipment to be provided to Palau by the United States necessary to implement the plan.

SEC. 104. PUBLIC AUDITOR AND SPECIAL PROSECUTOR.

President of U.S.
48 USC 1681 note.

(a) Upon request of the Government of Palau the President shall provide, on a nonreimbursable basis, appropriate technical assistance to the public auditor or special prosecutor. The assistance provided pursuant to this subsection for the first five years after the effective date of the Compact shall, upon the request of the Government of Palau, and to the extent personnel are available, include (but not be limited to) the full time services of—

(1) an auditor or accountant, as determined by the public auditor, for the office of public auditor; and

(2) an attorney or investigator, as determined by the special prosecutor, for the office of special prosecutor.

SEC. 105. POWER GENERATION.

48 USC 1681 note.

Section 104(e) of Public Law 99-658 is amended to read as follows:

"(e) Neither the Secretary of the Treasury nor any other officer or agent of the United States shall pay or transfer any portion of the sum and amounts payable to the Government of Palau pursuant to this joint resolution to any party other than the Government of Palau, except under the procedures established by the Compact and its related agreements. No funds appropriated pursuant to the Compact, this Act, or any other Act for grants or other assistance to Palau may be used to satisfy any obligation or expense incurred by Palau prior to November 14, 1986, with respect to any contract or debt related to any electrical generating plant or related facilities entered into or incurred by Palau which has not been specifically authorized by Congress in advance, except that the Government of Palau may use any portion of the annual grant under section 211(b) not required to be devoted to the energy needs of those parts of Palau not served by its central power generating facilities and any portion of the funds under section 212(b) of the Compact for such purpose.".

SEC. 106. AUDIT CERTIFICATION.

48 USC 1681 note.

The chief officer of any agency conducting an audit pursuant to paragraph (1) of sections 102(c) and 103(m) of the Compact of Free Association Act of 1985 (Public Law 99-239) and section 101(d)(1)(C) of Public Law 99-658 shall certify that audit.

48 USC 1681 note.

SEC. 107. ACQUISITION OF DEFENSE SITES.

The provisions of title III of the Compact relating to future use by the United States of defense sites in Palau do not restrict the authority of the President of the United States to—

(1) request additional funding, subject to appropriation, related to the use of privately owned land in Palau pursuant to article II of title III of the Compact as may be appropriate in light of actual land use requirements, independent appraisals of such privately owned land accepted by both governments, and other appropriate documentation of actual land use costs; and

(2) consent to an extension of the time set forth in a subsidiary agreement to such article in which the Government of Palau is required to make such land available to the United States.

Micronesia. Marshall Islands. 48 USC 1681 note.

SEC. 108. FEDERAL PROGRAMS COORDINATION PERSONNEL.

The Secretary of the Interior shall station at least one professional staff person in each of the Offices of the United States Representatives in the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands to provide Federal program coordination and technical assistance to such governments as authorized under Public Laws 99-239 and 99-658. In meeting the purposes of this section the Secretary shall select qualified persons following consultations with the Interagency Group on Freely Associated State Affairs.

48 USC 1681 note.

SEC. 109. REFERENDUM COSTS.

The Secretary of the Interior shall provide such sums as may be necessary for a further referendum on approval of the Compact, if one is required, or other appropriate costs associated with the approval process in Palau.

48 USC 1681 note.

SEC. 110. AGREEMENTS.

(a) Effective Date of Certain Agreements.—An agreement between the United States and the Government of the Republic of Palau consistent with the agreements approved by Public Law 101-62 (101 Stat. 162) shall take effect without further authorization thirty days after submission to Congress.

(b) Extensions.—The provisions of article IX, paragraph 5(a) of the Agreement referred to in section 462(e) of the Compact of Free Association as approved by Public Law 99-239, and article IX, paragraph 5(a) of the agreement referred to in section 462(f) of the Compact of Free Association for Palau as approved by Public Law 99-658, are extended, in accordance with the terms thereof, until October 1, 1998, unless earlier terminated or further extended by the laws of the United States.

99 Stat. 1833. 100 Stat. 3702.

(c) Authorization.—Funding to implement the provisions of this title, and for assistance to the central health care facility and the prison in Palau, and the offices of Public Auditor and Special Prosecutor as proposed in the agreement entitled "Agreement Concerning Special Programs related to the Entry into Force of the Compact of Free Association Between the Government of the United States and the Government of the Republic of Palau" signed on May 26, 1989, shall be available pursuant to the authorization in section 105(c) of Public Law 99-239 as referenced by section 102(b) of Public Law 99-658 or from funds appropriated for technical assistance to the Secretary of the Interior.

SEC. 111. MODIFICATION OF ENERGY ASSISTANCE FUNDING.

48 USC 1681 note.
President of U.S.

(a) The President is authorized to negotiate and conclude an agreement, including the obligation of United States funds, with the Government of Palau which shall provide the following:

(1) The sum of $28,000,000, adjusted by section 215 of the Compact at the time of its availability to Palau, shall be provided to Palau pursuant to section 211(b) of the Compact and upon entry into force of the Compact.

(2) Palau shall pay to the United States, on or before the 15th anniversary of the effective date of the Compact, an amount equal to the net economic cost to the United States of making available the section 211(b) funds in the manner specified in this subsection rather than as provided in section 211(b).

(3) Such economic cost shall reflect the time value of money and be determined using the rate determined for an equivalent loan by the Federal Financing Bank as of the date these funds are advanced, and using an inflation rate consistent with the determinations made under the provisions of section 215 of the Compact.

(4) If the Government of Palau has not paid such net economic costs to the United States by the 15th anniversary of the effective date of the Compact, then the United States shall be automatically paid such sums from the fund established under section 211(f) of the Compact.

(5) The provision of section 211(b) funds, as appropriated by Public Law 99-349 and pursuant to this subsection, shall be in fulfillment of all United States obligations under such section 211(b) of the Compact and shall be subject to section 236 of the Compact.

(b) Subject to the provisions of subsection (a) and upon the request of the Government of Palau, the sum of $28 million appropriated by Public Law 99-349 to fulfill the obligations of the United States under section 211(b) of the Compact (approved in Public Law 99-658), adjusted by section 215 of such Compact, shall be provided to Palau upon entry into force of the Compact.

(c) Funding provided in Public Law 101-121 under the "Trust Territory of the Pacific Islands" appropriation account shall remain available until expended.

SEC. 112. SUBMISSION OF AGREEMENTS.

48 USC 1681 note.

Any agreement concluded with the Government of Palau pursuant to this joint resolution including the agreement entitled "Agreement Concerning Special Programs related to the Entry into Force of the Compact of Free Association Between the Government of the United States and the Government of the Republic of Palau" signed on May 26, 1989, and any agreement which would amend, change, or terminate any such agreement, or portion thereof, shall be submitted to the Congress and may not take effect until after 30 days after the date on which such agreement is so submitted. An amendment or agreement substituting or in addition to the subsidiary agreement negotiated under section 212(a) of the Compact or its annex shall take effect only when approved by an Act of Congress.

SEC. 113. TRANSITION FUNDING.

48 USC 1681 note.

For the purposes of applying section 105(c)(2) of the Compact of Free Association Act of 1985 (99 Stat. 1792) to Palau, the terms "fiscal year 1987", "fiscal year 1988", and "fiscal year 1989" in section 104(c) of Public Law 99-658 shall be deemed to be the first, second, and third fiscal years, respectively, beginning after the effective date of the Compact.

TITLE II—INSULAR AREAS MATTERS

48 USC 1681 note.

SEC. 201. CONTROLLED SUBSTANCES IN THE FREELY ASSOCIATED STATES.

President of U.S.

(a) IN GENERAL.—The President is authorized to negotiate agreements which provide—

(1) that the United States shall carry out the provisions of part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) as necessary to provide for the lawful distribution of controlled substances in the freely associated states; and

(2) that a freely associated state which institutes and maintains a voluntary system to report annual estimates of narcotics needs to the International Narcotics Control Board, and which imposes controls on imports of narcotic drugs consistent with the Single Convention on Narcotic Drugs, 1961, shall be eligible for exports of narcotic drugs from the United States in the same manner as a country meeting the requirements of subsection (a) of section 1003 of the Controlled Substances Act (21 U.S.C. 953).

(b) EFFECTIVE DATE.—Agreements concluded pursuant to this section shall become effective pursuant to section 101(f)(5) of Public Law 99-239 or section 101(d)(5) of Public Law 99-658, as may be applicable.

Libraries.
44 USC 1905 note.

SEC. 202. NORTHERN MARIANAS COLLEGE.

The Northern Marianas College is hereby constituted a depository to receive Government publications, and the Superintendent of Documents shall supply to the Northern Marianas College one copy of each such publication in the same form as supplied to other designated depositories.

SEC. 203. VIRGIN ISLANDS.

The Revised Organic Act of the Virgin Islands is amended by striking out the second sentence of section 25 (48 U.S.C. 1615).

SEC. 204. CABRAS ISLAND.

Section 818(b)(2) of Public Law 96-418 (94 Stat. 1782) (as amended by section 504 of Public Law 98-454 (98 Stat. 1736)) is amended by striking "30 percent" and inserting "50 percent".

Appropriation authorization.

SEC. 205. POHNPEI HYDROPOWER ADDITION.

In addition to sums already appropriated for the Nanpil hydropower project, there are hereby authorized to be appropriated to the Secretary of the Army up to $6.5 million for design and construction of the hydropower addition to the Nanpil project. The Secretary of the Army is directed to use any funds appropriated pursuant to this authorization for the intended purposes, and under the same terms and conditions as sums previously provided.

SEC. 206. CLARIFICATION WITH RESPECT TO ALLOTMENTS FOR TERRITORIES.

Section 901(a), Part 1, title I of the Act of June 19, 1968 (42 U.S.C. 3791(a)) is further amended in paragraph (2) by changing the proviso to read as follows: "*Provided*, That for the purpose of section 506(a), American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one state and that for these purposes 67 per centum of the amounts allocated shall be allocated to American Samoa, and 33 per centum to the Commonwealth of the Northern Mariana Islands.".

SEC. 207. VIRGIN ISLANDS PRISON EXPANSION AND RENOVATION.

Appropriation authorization.

There is authorized to be appropriated $5,000,000 to the Secretary of the Interior for the Golden Grove Prison on St. Croix, United States Virgin Islands, and for renovation of and improvements of existing prison facilities.

SEC. 208. OFFICE OF THE RESIDENT REPRESENTATIVE.

Real property.
Taxes.
48 USC 1681 note.

Real property owned by the Commonwealth of the Northern Mariana Islands in the capital of the United States and used by the Resident Representative thereof in the discharge of his representative duties under the Covenant shall be exempt from assessment and taxation.

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.J. Res. 175:

SENATE REPORTS: No. 101-189 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  June 27, considered and passed House.
  Nov. 21, considered and passed Senate, amended. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  Dec. 12, Presidential statement.

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PUBLIC LAW 101-220—DEC. 12, 1989

TECHNICAL AND CORRECTING CHANGES IN AGRICULTURE PROGRAMS

Public Law 101-220
101st Congress

An Act

Dec. 12, 1989
[S. 1793]

To make technical and correcting changes in agriculture programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OAT ACREAGE LIMITATION PROGRAM.

(a) In General.—Effective only for the 1990 crop of feed grains, section 105C(f)(2)(G) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(2)(G)) is amended—

(1) by inserting "(i)" after the subparagraph designation; and

(2) by adding at the end the following new clause:

"(ii) In the case of the 1990 crop of oats, the Secretary may establish a percentage reduction for oats in accordance with paragraph (1) of less than 5 percent. If the Secretary does not establish a percentage reduction requirement for oats, the Secretary shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased as a result of this clause.".

(b) Conforming Amendments.—Effective only for the 1990 crop of feed grains, section 105C of such Act is amended—

(1) in subsection (d)(1), by adding at the end the following new subparagraph:

"(E) This subsection shall not apply to the 1990 crop of oats."; and

(2) in subsection (f)(1), by adding at the end the following new subparagraph:

"(E) As a condition of eligibility for loans, purchases, and payments for the 1990 crop of oats, the producers of oats on a farm may not plant oats in excess of the crop acreage base for the farm.".

15 USC 714c note.

SEC. 2. EXPORT ENHANCEMENT PROGRAM; PROMOTION OF UNITED STATES MEAT EXPORTS.

(a) Commissaries.—During each of fiscal years 1990, 1991, and 1992, the Commodity Credit Corporation shall, in carrying out the export enhancement program established pursuant to section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)), promote the export of United States meat, including poultry products, to commissaries on military installations in the European Community.

(b) Funding.—

(1) In general.—Except as provided in paragraph (2), of the amounts made available by the Commodity Credit Corporation to exporters, processors, and foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market, the Commodity Credit Corporation shall make available to carry out subsection (a) not less than $14,000,000 in funds or commodities for fiscal year 1990, not less

than $9,300,000 in funds or commodities for fiscal year 1991, and not less than $4,600,000 in funds or commodities for fiscal year 1992.

(2) TRANSPORTATION COSTS.—Funds or commodities shall be made available under this section only to the extent that funds are made available by the Department of Defense for the costs of transporting the meat to the commissaries.

(c) REIMBURSEMENT OF CORPORATION.—Section 4 of the Act of July 16, 1943 (57 Stat. 566, chapter 241; 15 U.S.C. 713a) shall not apply to services performed, losses sustained, operating costs incurred, or commodities purchased or delivered by the Commodity Credit Corporation pursuant to this section.

SEC. 3. EGGS.

(a) EXEMPTED EGG PRODUCERS.—Section 12 of the Egg Research and Consumer Information Act (7 U.S.C. 2711) is amended to read as follows:

"SEC. 12. EXEMPTED EGG PRODUCERS AND BREEDING HEN FLOCKS, CONDITIONS AND PROCEDURES.

"(a) IN GENERAL.—The following shall be exempt from the specific provisions of this Act under such conditions and procedures as may be prescribed in the order or rules and regulations issued thereunder:

"(1) Any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded 30,000 laying hens, as determined under subsection (b).

"(2) Any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

"(b) NUMBER OF LAYING HENS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the aggregate number of laying hens owned by an egg producer shall include—

"(A) in cases in which the producer is an individual, laying hens owned by such producer or members of such producer's family that are effectively under the control of such producer, as determined by the Secretary;

"(B) in cases in which the producer is a general partnership or similar entity, laying hens owned by the entity and all partners or equity participants in the entity; and

Corporation.

"(C) in cases in which the producer holds 50 percent or more of the stock or other beneficial interest in a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity, laying hens owned by the entity.

Securities.

Ownership of laying hens by a trust or similar entity shall be considered ownership by the beneficiaries of the trust or other entity.

"(2) STOCK OR BENEFICIAL INTERESTS.—For purposes of paragraph (1)(C), stock or other beneficial interest in an entity that is held by—

"(A) members of the producer's family described in paragraph (1)(A);

"(B) a general partnership or similar entity in which the producer is a partner or equity participant;

"(C) the partners or equity participants in an entity of the type described in subparagraph (B); or

"(D) a corporation, joint stock company, association, cooperative, limited partnership, or other similar entity in which the producer holds 50 percent or more of the stock or other beneficial interests,

shall be considered as held by the producer.".

7 USC 2711 note. (b) EGG PROMOTION AND RESEARCH ORDER.—

(1) AMENDMENT.—The Secretary of Agriculture shall issue an amendment to the egg promotion and research order issued under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) to implement the amendments made by this section. Such amendment shall be issued after public notice and opportunity for comment in accordance with section 553 of title 5, United States Code, and without regard to sections 556 and 557 of such title. The Secretary shall issue a proposed amendment to such order not later than 30 days after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The amendment to the egg promotion and research order required by paragraph (1) shall become effective no later than March 1, 1990, and shall not be subject to a referendum under the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.).

SEC. 4. PEANUTS.

Section 8b of the Agricultural Adjustment Act (7 U.S.C. 608b), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following:

"(b)(1) If an agreement with the Secretary is in effect with respect to peanuts pursuant to this section—

"(A) all peanuts handled by persons who have not entered into such an agreement with the Secretary shall be subject to inspection to the same extent and manner as is required by such agreement; and

"(B) no such peanuts shall be sold or otherwise disposed of for human consumption if such peanuts fail to meet the quality requirements of such agreement.

"(2) Violation of this subsection by a person who has not entered into such an agreement shall result in the assessment by the Secretary of a penalty equal to 140 percent of the support price for quota peanuts multiplied by the quantity of peanuts sold or disposed of in violation of subsection (b)(1)(B), as determined under section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-2), for the marketing year for the crop with respect to which such violation occurs.".

7 USC 608b note. (c) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to the 1990 and subsequent crops of peanuts.

SEC. 5. RESEARCH INTO NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473D (7 U.S.C. 3319d) the following new section:

"SEC. 1473E. RESEARCH INTO NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.

7 USC 3319e.

"The Secretary may—

"(1) conduct fundamental and applied research related to the development of new commercial products derived from natural plant materials for industrial, medical, and agricultural applications; and

"(2) participate with colleges and universities, other Federal agencies, and private sector entities in conducting such research.".

SEC. 6. CALCULATION OF INSURANCE PREMIUMS PAID BY FARM CREDIT SYSTEM INSTITUTIONS.

(a) IN GENERAL.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—

Banks and banking.
Loans.

"(1) IN GENERAL.—Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

"(A) the annual average principal outstanding for such year on loans made by the bank that are in accrual status, excluding the guaranteed portions of government-guaranteed loans provided for in subparagraph (C), multiplied by 0.0015;

"(B) the annual average principal outstanding for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025; and

"(C)(i) the annual average principal outstanding for such year on the guaranteed portions of Federal Government-guaranteed loans made by the bank that are in accrual status, multiplied by 0.00015; and

"(ii) the annual average principal outstanding for such year on the guaranteed portions of State government-guaranteed loans made by the bank that are in accrual status, multiplied by 0.0003.

"(2) DEFINITION OF GOVERNMENT-GUARANTEED LOANS.—As used in this section and section 1.12(b), the term 'government-guaranteed loans' means loans or credits, or portions of loans or credits, that are guaranteed—

"(A) by the full faith and credit of the United States Government or any State government;

"(B) by an agency or other entity of the United States Government whose obligations are explicitly guaranteed by the United States Government; or

"(C) by an agency or other entity of a State government whose obligations are explicitly guaranteed by such State government.";

(2) in subsection (b), by inserting after "for the following calendar year" the following: ", as determined under subsection (a),";

(3) in subsection (c), by inserting after "at such time" the following: "(adjusted downward to exclude an amount equal to the sum of (1) 90 percent of the guaranteed portions of principal outstanding on Federal Government-guaranteed loans in accrual status made by such banks and (2) 80 percent of the

guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by such banks, as determined by the Corporation)"; and

(4) in subsection (d)—

(A) by striking "subsection (a)" in the material preceding paragraph (1) and inserting "subsections (a) and (c)";

(B) by striking "intermediate term" in the material preceding paragraph (1); and

(C) by striking paragraph (1) and inserting the following:

"(1) by any production credit association, or any other association making direct loans under authority provided under section 7.6, that is able to make such loans because such association is receiving, or has received, funds provided through the Farm Credit Bank;".

(b) CONFORMING AMENDMENTS.—(1) The first sentence of subsection (b) of section 1.12 of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended by inserting after "production credit association" the following: ", other association making direct loans under the authority provided under section 7.6,".

(2) The second sentence of subsection (b) of section 1.12 of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

(A) in paragraph (1)—

(i) by inserting before "discounted with" the following: "funded by or";

(ii) by inserting after "that are in accrual status," the following: "excluding the guaranteed portions of government-guaranteed loans provided for in paragraph (3),"; and

(iii) by striking "and" at the end;

(B) in paragraph (2)—

(i) by inserting before "discounted with" the following: "funded by or"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by inserting after paragraph (2) the following:

"(3)(A) the annual average principal outstanding for such year on the guaranteed portions of Federal government-guaranteed loans made by the association, or by the other financing institution and funded by or discounted with the Farm Credit Bank, that are in accrual status, multiplied by 0.00015; and

"(B) the annual average principal outstanding for such year on the guaranteed portions of State government-guaranteed loans made by the association, or by the other financing institution and funded by or discounted with the Farm Credit Bank, that are in accrual status, multiplied by 0.0003.".

(3) Section 5.59(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-8(b)(1)) is amended by inserting after "any production credit association," the following: "any other association making direct loans under authority provided under section 7.6,".

(4) Section 5.61(e) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-10(e)) is amended by inserting after "production credit association" the following: "and other association making direct loans under the authority provided under section 7.6".

12 USC 2020 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective for insurance premiums due to the Farm Credit System Insurance Corporation under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) on or after January 1, 1990, based on the loan volume of each bank for each calendar year beginning with calendar year 1989, and shall be effective for the calculation of the initial premium payment required under section 5.56(c) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-5(c)).

SEC. 7. PURCHASES OF FINANCIAL ASSISTANCE CORPORATION STOCK BY FARM CREDIT SYSTEM INSTITUTIONS.

12 USC 2278b-9 note.

(a) Delayed Effective Date for Stock Purchase Requirements.—Notwithstanding any other provision of law, the amendments to section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) made by section 646 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460; 102 Stat. 2266) shall be effective on October 1, 1992.

(b) Payments.—

(1) Four annual payments.—Notwithstanding any other provison of law, the Financial Assistance Corporation shall pay, out of the Financial Assistance Corporation Trust Fund (hereinafter in this section referred to as the "Trust Fund") established under section 6.25(b) of the Farm Credit Act of 1971 (12 U.S.C. 2278b-5(b)), to each of the institutions of the Farm Credit System that purchased stock in the Financial Assistance Corporation under section 6.29 of the Farm Credit Act of 1971, four annual payments as provided in this subsection.

(2) Timing of payments.—The annual payments provided for by this subsection shall be made available as soon as practicable after October 1 of each of the calendar years 1989 through 1992.

(3) Calculation of first payment.—The first annual payment made available under this subsection shall be in an amount equal to—

(A) a percentage equal to 1.5 times the average rate of interest received by the Financial Assistance Corporation on assets of the Trust Fund from March 30, 1988, through September 30, 1989; times

(B) the difference between $177,000,000 and 4.4 percent of the cumulative amount of the bonds issued by the Financial Assistance Corporation through September 30, 1989.

(4) Calculation of remaining payments.—The second, third, and fourth annual payments made available under this subsection shall be in an amount equal to—

(A) a percentage equal to the average rate of interest received by the Financial Assistance Corporation on assets of the Trust Fund during each of the fiscal years 1990 through 1992; times

(B) the difference between $177,000,000 and 4.4 percent of the cumulative amount of the bonds issued by the Financial Assistance Corporation through September 30 of each of such fiscal years.

(5) Distribution of annual payments.—Annual payments due under this subsection shall be made available to each institution described in paragraph (1) in an amount equal to the total amount of annual payments to be made available times the ratio of the amount of stock each institution purchased divided by $177,000,000.

EC. 8. EXEMPTION OF CERTAIN INTEREST PAYMENTS BY THE UNITED STATES TREASURY FROM SEQUESTRATION.

Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit ontrol Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting

"Farm Credit System Financial Assistance Corporation, interest payments (20-1850-0-1-351);" after "Exchange stabilization fund. (20-4444-0-3-155);".

SEC. 9. DISASTER ASSISTANCE COVERAGE FOR EARTHQUAKES.

Ante, p. 570.

(a) ANNUAL CROPS.—(1) Section 104(d)(1) of the Disaster Assistance Act of 1989 is amended by inserting "ornamentals affected by earthquake and" after "(including".

(2) Section 112(1) of such Act is amended by inserting "earthquake," after "hurricane,".

Ante, p. 577.

(b) ORCHARDS.—(1) Section 121(a) of the Disaster Assistance Act of 1989 is amended to read as follows:

"(a) LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 122, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze, earthquake, or related condition in 1989, as determined by the Secretary.".

Ante, p. 577.

(2) Section 122(1) of such Act is amended by inserting ", earthquake," after "freeze".

Ante, p. 578.

(c) FOREST CROPS.—(1) Section 131(a) of the Disaster Assistance Act of 1989 is amended to read as follows:

"(a) LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 132, to eligible tree farmers that planted tree seedlings in 1988 or 1989 for commercial purposes but lost such seedlings as a result of drought, earthquake, or related condition in 1989, as determined by the Secretary.".

Ante, p. 578.

(2) Section 132(1) of such Act is amended by inserting ", earthquake," after "drought".

7 USC 1929a note.

(d) DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES.—Section 401 of the Disaster Assistance Act of 1989 is amended—

(1) in paragraph (a)(1), by inserting "earthquake," after "excessive moisture,"; and

(2) in paragraph (c)(2), by striking out "$200,000,000" and inserting "$300,000,000".

SEC. 10. TEMPORARY EXCLUSION OF CERTAIN HOUSING ASSISTANCE FROM INCOME FOR PURPOSES OF THE FOOD STAMP ACT OF 1977.

Section 807(b) of the Stewart B. McKinney Homeless Assistance Act (7 U.S.C. 2014 note) is amended by—

(1) striking "1989" and inserting "1990";

(2) redesignating paragraph (2) as paragraph (3); and

(3) inserting after paragraph (1) the following paragraph:

"(2) The Secretary shall adjust the level of benefits provided to households under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) during the period between September 30, 1989 and the effective date of this paragraph to ensure that the level of such benefits is no less than the level determined in accordance with the provisions of section 5(k)(2)(F) of the Food Stamp Act of 1977.".

SEC. 11. SUBMISSION OF ACTUAL YIELD DATA TO COUNTY COMMITTEES.

(a) SUBMISSION OF ACTUAL YIELD DATA TO COUNTY COMMITTEES.—Effective for the 1989 and 1990 crops of wheat, feed grains, upland cotton, and rice, section 506 of the Agricultural Act of 1949 (7 U.S.C. 1466) is amended by adding at the end the following new subsection:

"(e)(1) With respect to the 1989 and subsequent crop years, the Secretary shall allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop. The Secretary shall maintain such data for at least five crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs for the 1989 and subsequent crops. Records.

"(2) The Secretary shall provide timely notification to producers of the provisions of paragraph (1).

"(3) With respect to the 1989 crop year, the Secretary shall determine what the costs of each commodity program would be if farm program payment yields were determined in accordance with the methods prescribed in paragraph (4) and what the impact of such alternative methods would be on each commodity program and on producers participating in each commodity program.

"(4) The alternative methods of determining program payment yields for purposes of paragraph (3) shall include, at a minimum:

"(A) using producers' actual yields for the current crop year;

"(B) allowing producers the option of choosing to use their actual yields or the county average yield for the current crop year; and

"(C) the yield derived on the basis of the average of the actual yield per harvested acre for the crop for each of the five crop years immediately preceding such crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

Not later than January 30, 1990, the Secretary shall report the determinations under this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.". Reports.

(b) Submission of Soybean Actual Yield Data to County Committees.—With respect to the 1989 and 1990 crop years, the Secretary shall allow producers of soybeans to provide to county committees (as defined in section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462)) data with respect to the actual yield for each farm for each crop of soybeans. The Secretary shall maintain such data for at least five crop years after receipt in such a manner as to be easily accessible. The Secretary shall provide timely notification to producers of the provisions of this section. 7 USC 1466 note. Records.

SEC. 12. EXTENSION ON SALE OF RURAL DEVELOPMENT LOANS.

Section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929a note) is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding the provisions of section 633 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460), the Secretary of Agriculture shall offer to the issuer of any unsold note or other obligation described in paragraph (2)(A) for which such issuer made the good faith deposit described in paragraph (2)(A) the opportunity to purchase such note or other obligation consistent with the provisions of this subsection and subsections (f)(2) and (f)(3). Securities.

"(2) The provisions of this subsection shall apply only to those issuers who:

"(A) on or before March 9, 1989, made a good faith deposit under this section for fiscal year 1989 with the Secretary to purchase a note or other obligation held in the Rural Development Insurance Fund; and

"(B) otherwise meet all eligibility criteria, as such criteria existed immediately prior to May 9, 1989, at the time the purchase occurs under this subsection.

"(3) The opportunity to purchase any such note or other obligation shall be held open, under the policies and procedures in effect under subsections (f)(2) and (f)(3) immediately prior to May 9, 1989, for 150 days after the date of enactment of this subsection. The Secretary shall not require any further good faith deposit from issuers who qualify under this subsection. The Secretary shall notify eligible issuers of the opportunity afforded under this subsection within 30 days after the date of enactment of this subsection and may require such issuers to express an intention to purchase their note or other obligation by a date certain.".

Taxes.
Tariff Schedules of the U.S.
7 USC 1736cc.

SEC. 13. PROHIBITION ON DUTY DRAWBACK CLAIMS BY EXPORTERS WHO USE CERTAIN EXPORT PROMOTION PROGRAMS.

(a) IN GENERAL.—The Secretary of Agriculture may provide that a person shall be ineligible for participation in an export program established under title I or title III of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

Claims.

(b) VEGETABLE OIL.—A person shall be ineligible for participation in any of the export programs referred to in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

(c) CERTIFICATION.—A person applying to export any agricultural commodity or product under the export programs referred to in subsection (a) shall certify, in accordance with regulations issued under subsection (d), that none of the commodity or product has been or will be used as the basis of a claim for any refund specified in subsection (a), except that a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b).

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations to carry out this section.

Contracts.

(e) APPLICABILITY.—This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to the effective date of this section, for an export sale.

SEC. 14. REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS.

Disaster assistance.
7 USC 1421 note.

Effective only for the 1988 crops of wheat, feed grains, upland cotton, and rice, produced by producers that qualified for assistance under section 201(a) of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) or section 101(a) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note), if the Secretary of Agriculture determines that any portion of the advance deficiency payment made to producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) must be refunded, such refund shall not be required to be made prior to July 31, 1990.

Approved December 12, 1989.

LEGISLATIVE HISTORY—S. 1793:

CONGRESSIONAL RECORD, Vol. 135 (1989):
- Oct. 25, considered and passed Senate.
- Nov. 9, considered and passed House, amended.
- Nov. 21, Senate concurred in House amendment with amendments. House concurred in Senate amendments.

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PUBLIC LAW 101-221—DEC. 12, 1989

STEEL TRADE LIBERALIZATION PROGRAM IMPLEMENTATION ACT

39-139 O - 89 (221)

Public Law 101-221
101st Congress

An Act

Dec. 12, 1989
[H.R. 3275]

To implement the steel trade liberalization program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Steel Trade Liberalization Program Implementation Act.
Business and industry.
Imports.
19 USC 2101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steel Trade Liberalization Program Implementation Act".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES; SENSE OF CONGRESS REGARDING THE STEEL TRADE LIBERALIZATION PROGRAM.

(a) FINDINGS AND PURPOSES.—Section 802 of the Steel Import Stabilization Act (19 U.S.C. 2253 note) is amended to read as follows:

"SEC. 802. FINDINGS AND PURPOSES.

"(a) The Congress finds that—

"(1) since 1984, the United States steel industry has made significant progress toward adjustment, through modernization of production facilities, elimination of excess capacity, reduction of production costs, and improvement of productivity;

"(2) an extension of import relief, through transitional bilateral arrangements, for a period of two and one-half years will facilitate the steel industry's continued modernization and worker retraining;

"(3) liberalization of market access during the period of transitional bilateral arrangements, with preferential treatment for countries who support fair and open trade, will help ensure an orderly return to an open market;

"(4) the negotiation of an international consensus through the Uruguay Round of trade negotiations and through bilateral agreements to address subsidies and tariff and nontariff barriers will strengthen the international trading system and conditions of global steel trade; and

"(5) the termination of transitional bilateral arrangements by March 31, 1992, and the full and forceful application of the United States unfair trade laws, will protect the United States national interest in preserving conditions of fair and open trade in the United States market.

"(b) The purposes of this title are—

"(1) to endorse the principles and goals of the steel trade liberalization program as announced by the President on July 25, 1989, and provide for its implementation;

"(2) to grant specific enforcement powers to the President to carry out the terms and conditions of bilateral arrangements entered into for purposes of implementing that program; and

"(3) to make the continuation of those powers subject to the condition that the steel industry continue to modernize its plant and equipment and provide for appropriate worker retraining.".

(b) Sense of Congress.—Section 803 of the Steel Import Stabilization Act is amended to read as follows:

19 USC 2253 note.

"SEC. 803. SENSE OF CONGRESS REGARDING THE STEEL TRADE LIBERALIZATION PROGRAM.

"(a) The Congress supports the full and effective implementation of the steel trade liberalization program.

"(b) It is the sense of the Congress that the steel trade liberalization program should be implemented in a manner which provides for liberalized market access for steel products during the period in which bilateral arrangements remain authorized in order to prepare for the eventual termination of such arrangements in 1992 and reliance thereafter on market forces and the full enforcement of United States trade laws. In particular, liberalized market access should be provided to those foreign countries that work with the United States to achieve the goals referred to in subsection (c).

"(c) It is further the sense of the Congress that the United States Trade Representative should promptly conduct negotiations, through the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade and through complementary bilateral arrangements, to seek an international consensus regarding steel trade that provides for—

"(1) strong disciplines over trade-distorting government subsidies;

"(2) the lowering of trade barriers so as to ensure market access; and

"(3) enforcement measures to deal with violations of consensus obligations.

President of U.S. Reports.

"(d) The President shall provide to the Congress an annual assessment of the progress of the negotiations referred to in subsection (c). The President may include the assessment in the annual report required under section 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) regarding the trade agreements program.".

SEC. 3. EXTENSION OF ACT.

(a) Extension Until April 1, 1992.—Section 806(a) of the Steel Import Stabilization Act is amended—

19 USC 2253 note.

(1) by striking out "the fifth anniversary of the effective date of this title" in paragraph (1) and inserting "March 31, 1992"; and

(2) by striking out "or fourth" in paragraph (2) and inserting "fourth, fifth, sixth, or seventh".

19 USC 2253 note.

(b) Special Provision.—If the Steel Trade Liberalization Program Implementation Act is not enacted on or before October 1, 1989, then section 806(a)(2) of the Steel Import Stabilization Act (as amended by subsection (a)) shall be applied by treating the reference therein to the close of the fifth anniversary of the effective date of the Steel Import Stabilization Act as a reference to the close of the 30th day after the date of the enactment of the Steel Trade Liberalization Program Implementation Act.

SEC. 4. ENFORCEMENT AUTHORITY.

19 USC 2253 note.

(a) Interim Authority.—Section 805(a) of the Steel Import Stabilization Act is amended by adding at the end thereof the following new sentence: "The President is further authorized to carry out, between October 1, 1989, and the date of the concluding of any bilateral arrangement, such actions as may be necessary or appropriate to ensure an orderly transition to that arrangement.".

19 USC 2253 note.

(b) SHORT SUPPLY SITUATIONS.—Section 805(b) of the Steel Import Stabilization Act is amended to read as follows:

"(b)(1) If—

"(A) a bilateral arrangement includes a provision relating to short supply situations; and

"(B) the Secretary of Commerce (hereinafter in this subsection referred to as the 'Secretary') determines, in accordance with this subsection, that a short supply situation exists in the United States with respect to a steel product that is subject to a quantitative limitation under such arrangement;

the Secretary shall authorize the importation of additional quantities of that product without regard to any aggregate quantitative import limitation in effect under such arrangement.

"(2) In determining under this subsection whether a short supply situation exists in the United States with respect to a steel product, the Secretary shall take into account all relevant factors, including—

"(A) (to the extent information is available) the recent levels of capacity utilization for domestic facilities producing the product;

"(B) the quantity of the steel product requested in a short supply petition and the ability of domestic producers to supply the product in such quantity;

"(C) the willingness of a domestic producer to supply the steel product at a price which is not an aberration from prevailing domestic market prices;

"(D) reasonable specifications requested by the purchaser or any end user; and

"(E) delivery times to the purchaser and any end user of the steel product.

"(3)(A) A petition requesting a determination under this subsection may be filed with the Secretary. The petition must be in such form and contain such relevant information as the Secretary requires.

Federal Register, publication.

"(B) If the Secretary considers that a petition filed under subparagraph (A) is adequate, the Secretary shall promptly cause to be published in the Federal Register a notice that a determination under this subsection with respect to the steel product concerned is under consideration.

"(C) The Secretary shall provide opportunity for comment by interested persons regarding the issues raised in a petition.

"(D)(i) The petitioner shall certify that the factual information contained in the petition and any additional submission is accurate and complete to the best of the petitioner's knowledge.

"(ii) An interested person shall certify that the factual information submitted by that person to the Secretary is accurate and complete to the best of the person's knowledge.

"(4)(A) If an adequate petition is filed under paragraph (3)(A), the Secretary shall determine, not later than the day specified in subparagraph (B)—

"(i) whether a short supply situation exists in the United States with respect to the steel product; and

"(ii) if the determination under clause (i) is affirmative, the quantity of the steel product that the Secretary will authorize for importation.

"(B) The Secretary must make a determination with respect to a petition not later than—

"(i) the 15th day after the day on which the petition is filed if—

"(I) the raw steel making capacity utilization in the United States equals or exceeds 90 percent,

"(II) the importation of additional quantities of the steel product was authorized by the Secretary during each of the 2 immediately preceding years, or

"(III) the Secretary finds, on the basis of available information (and whether or not in the context of a determination under this subsection), that the steel product is not produced in the United States; or

"(ii) the 30th day after the day on which the petition was filed if neither subclause (I), (II), or (III) of clause (i) applies.

"(C) In making a determination with respect to which subparagraph (B)(i) applies, the Secretary shall apply a rebuttable presumption that the short supply situation alleged in the petition exists.

Federal Register, publication.

"(D) The Secretary shall cause to be published in the Federal Register notice of each determination made under this subsection setting forth the reasons for the determination.

"(5) If under this subsection the Secretary authorizes the importation of a specified quantity of a steel product, the Secretary shall notify a representative of the appropriate foreign government and issue to the petitioner the necessary documentation to permit the importation of that quantity.

Regulations.

"(6) The Secretary shall prescribe regulations to carry out this subsection. The interim text of such regulations shall be issued on or before the 30th day after the date of the enactment of the Steel Trade Liberalization Program Implementation Act. The regulations shall provide for transparency and fairness in the process of making short supply determinations, and shall be consistent with the President's announcement on July 25, 1989, establishing the steel trade liberalization program.".

(c) CONFORMING AMENDMENTS.—Section 805 is further amended—

(1) by amending subsection (c) by striking out "may provide" and inserting ", in consultation with the Secretary of Commerce, shall provide"; and

(2) by striking out "President's Steel Policy," in subsection (d)(3) and inserting "steel trade liberalization program".

SEC. 5. DEFINITIONS.

19 USC 2253 note.

Section 804 of the Steel Import Stabilization Act is amended—

(1) by inserting "or the steel trade liberalization program" before the period at the end of paragraph (1); and

(2) by adding at the end thereof the following:

"(4) The term 'steel trade liberalization program' means the program, announced by the President on July 25, 1989, designed to achieve an orderly transition to open markets, the continued modernization and adjustment of the steel industry, and the negotiation of an international consensus to restore fair and open steel trade.".

SEC. 6. DOMESTIC INDUSTRY EFFORTS TO IMPROVE QUALITY AND SERVICE AND TO PROVIDE WORKER TRAINING.

(a) IN GENERAL.—Section 806(b) of the Steel Import Stabilization Act is amended—

19 USC 2253 note.

(1) by amending paragraph (2)(A) to read as follows:

"(A) The term 'major company' means an enterprise that produces iron and steel and whose raw steel production in the United States during 1988 exceeded 2,000,000 net tons."; and

(2) by adding at the end of paragraph (3) the following: "For purposes of this paragraph, the United States International Trade Commission shall seek to—

"(A) obtain information from purchasers of domestic steel products, as well as from domestic producers of steel products, regarding recent improvements in domestic quality and service, including those that result from industry modernization; and

"(B) obtain information on—

"(i) the general nature of the worker retraining efforts undertaken by the steel industry, and

"(ii) with respect to the moneys referred to in paragraph (1)(B), the amounts used to retrain displaced former employees as compared with the amounts used for on-the-job retraining within the industry.".

19 USC 2253 note.

(b) Special Rule.—The amendment made by subsection (a)(1) shall not affect the definition of "qualified corporation" contained in section 212(g)(1)(A) of the Tax Reform Act of 1986.

SEC. 7. ETHYL ALCOHOL AND MIXTURES THEREOF FOR FUEL USE.

(a) Determination of Indigenous Products.—Section 423(c) of the Tax Reform Act of 1986 (19 U.S.C. 2703 note) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by striking out paragraph (2) and inserting the following:

"(2) Ethyl alcohol or a mixture thereof that is produced by a process of full fermentation in an insular possession or beneficiary country shall be treated as being an indigenous product of that possession or country.

"(3)(A) Ethyl alcohol and mixtures thereof that are only dehydrated within an insular possession or beneficiary country (hereinafter in this paragraph referred to as 'dehydrated alcohol and mixtures') shall be treated as being indigenous products of that possession or country only if the alcohol or mixture, when entered, meets the applicable local feedstock requirement.

"(B) The local feedstock requirement with respect to any calendar year is—

"(i) 0 percent with respect to the base quantity of dehydrated alcohol and mixtures that is entered;

"(ii) 30 percent with respect to the 35,000,000 gallons of dehydrated alcohol and mixtures next entered after the base quantity; and

"(iii) 50 percent with respect to all dehydrated alcohol and mixtures entered after the amount specified in clause (ii) is entered.

"(C) For purposes of this paragraph:

"(i) The term 'base quantity' means, with respect to dehydrated alcohol and mixtures entered during any calendar year, the greater of—

"(I) 60,000,000 gallons; or

"(II) an amount (expressed in gallons) equal to 7 percent of the United States domestic market for ethyl alcohol, as determined by the United States International Trade Commission, during the 12-month period ending on the preceding September 30;

that is first entered during that calendar year.

"(ii) The term 'local feedstock' means hydrous ethyl alcohol which is wholly produced or manufactured in any insular possession or beneficiary country.

"(iii) The term 'local feedstock requirement' means the minimum percent, by volume, of local feedstock that must be included in dehydrated alcohol and mixtures.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to calendar years 1990 and 1991.

19 USC 2703 note.

SEC. 8. CONSISTENCY OF THE SUPERFUND PETROLEUM TAX WITH THE GENERAL AGREEMENT ON TARIFFS AND TRADE.

(a) UNIFORM RATE.—Section 4611(c)(2)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 4611(c)(2)(A)) is amended to read as follows:

"(A) the Hazardous Substance Superfund financing rate is 9.7 cents a barrel, and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

26 USC 4611 note.

SEC. 9. EFFECTIVE DATE.

19 USC 2253 note.

The amendments made by this Act (other than the amendments made by sections 7 and 8) shall take effect on October 1, 1989.

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.R. 3275:

HOUSE REPORTS: No. 101-263 (Comm. on Ways and Means).
SENATE REPORTS: No. 101-206 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 135 (1989):
 Oct. 2, considered and passed House.
 Nov. 21, considered and passed Senate, amended. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
 Dec. 12, Presidential statement.

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ANTI-TERRORISM AND ARMS EXPORT AMENDMENTS ACT OF 1989

Public Law 101-222
101st Congress

An Act

Dec. 12, 1989
[H.R. 91]

To prohibit exports of military equipment to countries supporting international terrorism, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Anti-Terrorism and Arms Export Amendments Act of 1989.
22 USC 2151 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Anti-Terrorism and Arms Export Amendments Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Prohibition on arms transactions with countries supporting terrorism.
Sec. 3. Considerations in issuance of arms export licenses and in arms sales.
Sec. 4. Exports to countries supporting terrorism.
Sec. 5. Prohibition on assistance to countries supporting international terrorism.
Sec. 6. Designation of items on the munitions list.
Sec. 7. Quarterly reports on third country transfers and on DOD transfers to other agencies.
Sec. 8. Special authorities.
Sec. 9. Hostage Act.
Sec. 10. Self-defense in accordance with international law.

SEC. 2. PROHIBITION ON ARMS TRANSACTIONS WITH COUNTRIES SUPPORTING TERRORISM.

(a) PROHIBITION.—Section 40 of the Arms Export Control Act (22 U.S.C. 2780) is amended to read as follows:

"SEC. 40. TRANSACTIONS WITH COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

"(a) PROHIBITED TRANSACTIONS BY THE UNITED STATES GOVERNMENT.—The following transactions by the United States Government are prohibited:

"(1) Exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item to a country described in subsection (d) under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)). In implementing this paragraph, the United States Government—

"(A) shall suspend delivery to such country of any such item pursuant to any such transaction which has not been completed at the time the Secretary of State makes the determination described in subsection (d), and

"(B) shall terminate any lease or loan to such country of any such item which is in effect at the time the Secretary of State makes that determination.

"(2) Providing credits, guarantees, or other financial assistance under the authority of this Act, the Foreign Assistance Act of 1961, or any other law (except as provided in subsection (h)), with respect to the acquisition of any munitions item by a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend expenditures pursuant to any such assistance obligated before the Secretary of State makes the determination described in subsection (d). The President may authorize expenditures otherwise required to be suspended pursuant to the preceding sentence if the President has determined, and reported to the Congress, that suspension of those expenditures causes undue financial hardship to a supplier, shipper, or similar person and allowing the expenditure will not result in any munitions item being made available for use by such country.

"(3) Consenting under section 3(a) of this Act, under section 505(a) of the Foreign Assistance Act of 1961, under the regulations issued to carry out section 38 of this Act, or under any other law (except as provided in subsection (h)), to any transfer of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall withdraw any such consent which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been transferred to such country.

"(4) Providing any license or other approval under section 38 of this Act for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement) of any munitions item to a country described in subsection (d). In implementing this paragraph, the United States Government shall suspend any such license or other approval which is in effect at the time the Secretary of State makes the determination described in subsection (d), except that this sentence does not apply with respect to any item that has already been exported or otherwise transferred to such country.

"(5) Otherwise facilitating the acquisition of any munitions item by a country described in subsection (d). This paragraph applies with respect to activities undertaken—

"(A) by any department, agency, or other instrumentality of the Government,

"(B) by any officer or employee of the Government (including members of the United States Armed Forces), or

"(C) by any other person at the request or on behalf of the Government.

The Secretary of State may waive the requirements of the second sentence of paragraph (1), the second sentence of paragraph (3), and the second sentence of paragraph (4) to the extent that the Secretary determines, after consultation with the Congress, that unusual and compelling circumstances require that the United States Government not take the actions specified in that sentence.

"(b) PROHIBITED TRANSACTIONS BY UNITED STATES PERSONS.—

"(1) IN GENERAL.—A United States person may not take any of the following actions:

"(A) Exporting any munitions item to any country described in subsection (d).

"(B) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any country described in subsection (d).

"(C) Selling, leasing, loaning, granting, or otherwise providing any munitions item to any recipient which is not the government of or a person in a country described in subsection (d) if the United States person has reason to know that the munitions item will be made available to any country described in subsection (d).

"(D) Taking any other action which would facilitate the acquisition, directly or indirectly, of any munitions item by the government of any country described in subsection (d), or any person acting on behalf of that government, if the United States person has reason to know that that action will facilitate the acquisition of that item by such a government or person.

Corporations.
President of U.S.
Regulations.

"(2) LIABILITY FOR ACTIONS OF FOREIGN SUBSIDIARIES, ETC.—A United States person violates this subsection if a corporation or other person that is controlled in fact by that United States person (as determined under regulations, which the President shall issue) takes an action described in paragraph (1) outside the United States.

"(3) APPLICABILITY TO ACTIONS OUTSIDE THE UNITED STATES.—Paragraph (1) applies with respect to actions described in that paragraph which are taken either within or outside the United States by a United States person described in subsection (l)(3)(A) or (B). To the extent provided in regulations issued under subsection (l)(3)(D), paragraph (1) applies with respect to actions described in that paragraph which are taken outside the United States by a person designated as a United States person in those regulations.

"(c) TRANSFERS TO GOVERNMENTS AND PERSONS COVERED.—This section applies with respect to—

"(1) the acquisition of munitions items by the government of a country described in subsection (d); and

"(2) the acquisition of munitions items by any individual, group, or other person within a country described in subsection (d), except to the extent that subparagraph (D) of subsection (b)(1) provides otherwise.

"(d) COUNTRIES COVERED BY PROHIBITION.—The prohibitions contained in this section apply with respect to a country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

Federal Register, publication.

"(e) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (d) shall be published in the Federal Register.

Reports.

"(f) RESCISSION.—A determination made by the Secretary of State under subsection (d) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

"(g) WAIVER.—The President may waive the prohibitions contained in this section with respect to a specific transaction if—

"(1) the President determines that the transaction is essential to the national security interests of the United States; and

"(2) not less than 15 days prior to the proposed transaction, the President—

"(A) consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

Reports.

"(B) submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing—

"(i) the name of any country involved in the proposed transaction, the identity of any recipient of the items to be provided pursuant to the proposed transaction, and the anticipated use of those items;

"(ii) a description of the munitions items involved in the proposed transaction (including their market value) and the actual sale price at each step in the transaction (or if the items are transferred by other than sale, the manner in which they will be provided);

"(iii) the reasons why the proposed transaction is essential to the national security interests of the United States and the justification for such proposed transaction;

"(iv) the date on which the proposed transaction is expected to occur; and

"(v) the name of every United States Government department, agency, or other entity involved in the proposed transaction, every foreign government involved in the proposed transaction, and every private party with significant participation in the proposed transaction.

Public information. Classified information.

To the extent possible, the information specified in subparagraph (B) of paragraph (2) shall be provided in unclassified form, with any classified information provided in an addendum to the report.

"(h) EXEMPTION FOR TRANSACTIONS SUBJECT TO NATIONAL SECURITY ACT REPORTING REQUIREMENTS.—The prohibitions contained in this section do not apply with respect to any transaction subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

"(i) RELATION TO OTHER LAWS.—

"(1) IN GENERAL.—With regard to munitions items controlled pursuant to this Act, the provisions of this section shall apply notwithstanding any other provision of law, other than section 614(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)).

"(2) SECTION 614(a) WAIVER AUTHORITY.—If the authority of section 614(a) of the Foreign Assistance Act of 1961 is used to permit a transaction under that Act or the Arms Export Control Act which is otherwise prohibited by this section, the written policy justification required by that section shall include the information specified in subsection (g)(2)(B) of this section.

"(j) CRIMINAL PENALTY.—Any person who willfully violates this section shall be fined for each violation not more than $1,000,000, imprisoned not more than 10 years, or both.

"(k) CIVIL PENALTIES; ENFORCEMENT.—In the enforcement of this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies, and officials by sections 11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979 (subject to the same terms and conditions as are applicable to such powers under that Act), except that, notwithstanding section 11(c) of that Act, the civil penalty for each violation of this section may not exceed $500,000.

"(l) DEFINITIONS.—As used in this section—

"(1) the term 'munitions item' means any item enumerated on the United States Munitions list (without regard to whether the item is imported into or exported from the United States);

"(2) the term 'United States', when used geographically, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

"(3) the term 'United States person' means—

"(A) any citizen or permanent resident alien of the United States;

"(B) any sole proprietorship, partnership, company, association, or corporation having its principal place of business within the United States or organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

"(C) any other person with respect to that person's actions while in the United States; and

"(D) to the extent provided in regulations issued by the Secretary of State, any person that is not described in subparagraph (A), (B), or (C) but—

"(i) is a foreign subsidiary or affiliate of a United States person described in subparagraph (B) and is controlled in fact by that United States person (as determined in accordance with those regulations), or

"(ii) is otherwise subject to the jurisdiction of the United States,

with respect to that person's actions while outside the United States.".

(b) CONFORMING AMENDMENT.—Section 3(f) of the Arms Export Control Act (22 U.S.C. 2753(f)) is repealed.

SEC. 3. CONSIDERATIONS IN ISSUANCE OF ARMS EXPORT LICENSES AND IN ARMS SALES.

(a) EXPORT LICENSES.—Section 38(a)(2) of the Arms Export Control Act (22 U.S.C. 2778) is amended by inserting "support international terrorism," after "arms race,".

(b) ARMS SALES.—Section 36(b)(1)(D) of that Act (22 U.S.C. 2776(b)(1)(D)) is amended—

(1) by redesignating clauses (ii) through (iv) as clauses (iii) through (v), respectively; and

(2) by inserting the following new clause (ii) after clause (i):
"(ii) support international terrorism;".

SEC. 4. EXPORTS TO COUNTRIES SUPPORTING TERRORISM.

Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App 2405(j)) is amended to read as follows:

"(j) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—(1) A validated license shall be required for the export of goods or technology to a country if the Secretary of State has made the following determinations:

"(A) The government of such country has repeatedly provided support for acts of international terrorism.

"(B) The export of such goods or technology could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

"(2) The Secretary and the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any validated license required by paragraph (1).

Federal Register, publication.

"(3) Each determination of the Secretary of State under paragraph (1)(A), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

President of U.S. Reports.

"(4) A determination made by the Secretary of State under paragraph (1)(A) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs and the chairman of the Committee on Foreign Relations of the Senate—

"(A) before the proposed rescission would take effect, a report certifying that—

"(i) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(ii) that government is not supporting acts of international terrorism; and

"(iii) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(B) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(i) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(ii) the government concerned has provided assurances that it will not support acts of international terrorism in the future.".

SEC. 5. PROHIBITION ON ASSISTANCE TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

Section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) is amended to read as follows:

"SEC. 620A. PROHIBITION ON ASSISTANCE TO GOVERNMENTS SUPPORTING INTERNATIONAL TERRORISM.

"(a) PROHIBITION.—The United States shall not provide any assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Export-Import Bank Act of 1945 to any country if the Secretary of State determines that the government of that country has repeatedly provided support for acts of international terrorism.

Federal Register, publication.

"(b) PUBLICATION OF DETERMINATIONS.—Each determination of the Secretary of State under subsection (a), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

President of U.S. Reports.

"(c) RESCISSION.—A determination made by the Secretary of State under subsection (a) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate—

"(1) before the proposed rescission would take effect, a report certifying that—

"(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

"(B) that government is not supporting acts of international terrorism; and

"(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

"(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

"(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

"(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

President of U.S.

"(d) WAIVER.—Assistance prohibited by subsection (a) may be provided to a country described in that subsection if—

"(1) the President determines that national security interests or humanitarian reasons justify a waiver of subsection (a), except that humanitarian reasons may not be used to justify assistance under part II of this Act (including chapter 4, chapter 6, and chapter 8), or the Export-Import Bank Act of 1945; and

Reports.

"(2) at least 15 days before the waiver takes effect, the President consults with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate regarding the proposed waiver and submits a report to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate containing—

"(A) the name of the recipient country;

"(B) a description of the national security interests or humanitarian reasons which require the waiver;

"(C) the type and amount of and the justification for the assistance to be provided pursuant to the waiver; and

"(D) the period of time during which such waiver will be effective.

The waiver authority granted in this subsection may not be used to provide any assistance under the Foreign Assistance Act of 1961 which is also prohibited by section 40 of the Arms Export Control Act.".

SEC. 6. DESIGNATION OF ITEMS ON THE MUNITIONS LIST.

Section 38 of the Arms Export Control Act (22 U.S.C. 2278) is amended by adding at the end the following: 22 USC 2778.

"(h) The designation by the President (or by an official to whom the President's functions under subsection (a) have been duly delegated), in regulations issued under this section, of items as defense articles or defense services for purposes of this section shall not be subject to judicial review.".

SEC. 7. QUARTERLY REPORTS ON THIRD COUNTRY TRANSFERS AND ON DOD TRANSFERS TO OTHER AGENCIES.

(a) QUARTERLY REPORTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (9) the following:

"(10) a listing of the consents to third-party transfers of defense articles or defense services which were granted, during the quarter for which such report is submitted, for purposes of section 3(a)(2) of this Act, the regulations issued under section 38 of this Act, or section 505(a)(1)(B) of the Foreign Assistance Act of 1961, if the value (in terms of original acquisition cost) of the defense articles or defense services to be transferred is $1,000,000 or more; and

"(11) a listing of all munitions items (as defined in section 40(l)(1)) which were sold, leased, or otherwise transferred by the Department of Defense to any other department, agency, or other entity of the United States Government during the quarter for which such report is submitted (including the name of the recipient Government entity and a discussion of what that entity will do with those munitions items) if—

"(A) the value of the munitions items was $250,000 or more; or

"(B) the value of all munitions items transferred to that Government department, agency, or other entity during that quarter was $250,000 or more;

excluding munitions items transferred (i) for disposition or use solely within the United States, or (ii) for use in connection with intelligence activities subject to reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).".

(b) CLASSIFICATION OF REPORTS.—That section is amended in the parenthetical clause in the text preceding paragraph (1) by inserting ", and any information provided under paragraph (11) of this subsection may also be provided in a classified addendum" after "(b)(1) of this section".

SEC. 8. SPECIAL AUTHORITIES.

The second sentence of section 614(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(c)) is amended to read as follows: "The President of U.S.

President shall fully inform the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority member of the Committee on Foreign Relations of the Senate of each use of funds under this subsection prior to the use of such funds.".

SEC. 9. HOSTAGE ACT.

Section 2001 of the Revised Statutes of the United States (22 U.S.C. 1732) is amended by inserting "and not otherwise prohibited by law" after "acts of war".

22 USC 2371 note.

SEC. 10. SELF-DEFENSE IN ACCORDANCE WITH INTERNATIONAL LAW.

The use by any government of armed force in the exercise of individual or collective self-defense in accordance with applicable international agreements and customary international law shall not be considered an act of international terrorism for purposes of the amendments made by this Act.

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.R. 91 (S. 347):

HOUSE REPORTS: No. 101-296 (Comm. on Foreign Affairs).
SENATE REPORTS: No. 101-173 accompanying S. 347 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Oct. 23, considered and passed House.
  Nov. 21, considered and passed Senate, amended. House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  Dec. 12, Presidential statement.

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Public Law 101-223
101st Congress

An Act

To authorize the appropriation of funds to the District of Columbia for additional officers and members of the Metropolitan Police Department of the District of Columbia, to provide for the implementation in the District of Columbia of a community-oriented policing system, and for other purposes.

Dec. 12, 1989
[H.R. 1502]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Police Authorization and Expansion Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Police Authorization and Expansion Act of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL OFFICERS AND MEMBERS FOR THE METROPOLITAN POLICE DEPARTMENT OF THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Section 502 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end thereof the following new subsection:

"(c)(1) In addition to the amounts authorized to be appropriated under subsection (a) and subject to paragraphs (2) and (3), there are authorized to be appropriated to the District of Columbia, for salaries and expenses (including benefits) of 700 additional officers and members of the Metropolitan Police Department of the District of Columbia, $23,149,000 for fiscal year 1990, $23,338,000 for fiscal year 1991, $25,199,000 for fiscal year 1992, $27,252,000 for fiscal year 1993, and $28,367,000 for fiscal year 1994.

"(2) Amounts appropriated under paragraph (1) shall be available only for salaries and expenses (including benefits) of officers and members of the Metropolitan Police Department of the District of Columbia in excess of 4,355 officers and members (and supplies, equipment, and protective vests for reserve officers of the Metropolitan Police Department).

"(3)(A) For fiscal year 1990, no funds authorized to be appropriated under paragraph (1) may be obligated or expended until 120 days after the Mayor develops and submits a plan for the implementation in the District of Columbia of a community-oriented policing system (modeled after, though not limited to, such a system in Houston, Texas) to the Committee on the District of Columbia of the House of Representatives and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the United States Senate.

"(B) For fiscal years after 1990, no funds authorized to be appropriated under paragraph (1) may be obligated or expended until the Mayor submits a notification to the Committee on the District of Columbia of the House of Representatives and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the United States Senate that the District of Columbia has implemented for such fiscal year a community-oriented policing system in the District of Columbia.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 1989.

Reports.

SEC. 3. STUDY OF DISTRICT OF COLUMBIA COURT RESOURCES.

Not later than 60 days after the date of the enactment of this Act, the Joint Committee on Judicial Administration in the District of Columbia shall prepare and submit to Congress a report—

(1) analyzing resources available to District of Columbia courts;

(2) analyzing the feasibility of, and the costs associated with, an increase in the number of support personnel and judges assigned to District of Columbia courts; and

(3) evaluating the need for changes in the District of Columbia Pre-Trial Detention Act, the proposed felony sentencing guidelines for the District of Columbia Superior Court, and the social services program managed by and under the direction of the District of Columbia courts.

Drugs and drug abuse.

SEC. 4. REPORT ON EFFECTS OF INCREASED DISTRICT OF COLUMBIA LAW ENFORCEMENT EFFORTS ON CRIME IN METROPOLITAN AREA.

Not later than 60 days after the date of the enactment of this Act, the Attorney General shall prepare and submit to Congress a report analyzing the potential effects of increased efforts to eliminate drug-related criminal activity in the District of Columbia on crime and law enforcement in the metropolitan area surrounding the District, including the effects of such efforts on the caseload of prosecuting attorneys (including United States Attorneys) in such area.

Records.

SEC. 5. DEVELOPMENT OF CLASSIFICATION SYSTEM FOR INDIVIDUALS CONVICTED OF CRIMES IN DISTRICT.

(a) ASSISTANCE FROM BUREAU OF PRISONS AND NATIONAL INSTITUTE OF CORRECTIONS.—Not later than 180 days after the date of the enactment of this Act, the District of Columbia shall request the Director of the Bureau of Prisons and the Director of the National Institute of Corrections to provide the District of Columbia with technical assistance and training in the development of a criminal recordkeeping and classification system, which will provide a basis for a uniform strategy for managing and evaluating the processing in the District of Columbia's criminal justice system of individuals convicted of crimes in the District of Columbia.

Prisoners.

(b) INFORMATION INCLUDED IN SYSTEM DATA BASE.—The recordkeeping and classification system described in subsection (a) shall include a data base continuously updated to provide current information on the prison population of the District of Columbia, including, but not limited to, the following:

(1) Aggregate inmate profiles and classifications based on individual records and files.

(2) Escape and other risk assessments for individual inmates.

(3) Ongoing counts of the number of persons at various stages of processing in the criminal justice system.

(4) Projections for future prison populations.

SEC. 6. USE OF PROCEEDS OF FORFEITED PROPERTY FOR LAW ENFORCEMENT ACTIVITIES.

(a) IN GENERAL.—Section 502(d)(3)(B) of the District of Columbia Uniform Controlled Substances Act of 1981 (section 33-552(d)(3)(B), D.C. Code) is amended by striking "shall be used to finance programs" and inserting "shall be used, and shall remain available until expended regardless of the expiration of the fiscal year in which they were collected, to finance law enforcement activities of the Metropolitan Police Department of the District of Columbia, with any remaining balance used to finance programs".

(b) CLERICAL AMENDMENT.—Paragraphs (3) and (3a) of section 502(d) of the District of Columbia Uniform Controlled Substances Act of 1981 (sections 33-552(d) (3) and (3a), D.C. Code) are amended by—

(1) redesignating paragraph (3) as paragraph (4);

(2) redesignating paragraph (3a) as paragraph (3); and

(3) reordering the paragraphs so that paragraph (3), as redesignated, precedes paragraph (4), as redesignated.

SEC. 7. PARTICIPATION OF DISTRICT OF COLUMBIA METROPOLITAN POLICE DEPARTMENT IN THE NATIONAL CRIME INFORMATION SYSTEM.

(a) DISSEMINATION OF ADULT ARREST RECORDS TO LAW ENFORCEMENT AGENTS.—(1) Notwithstanding any other provision of law, the Metropolitan Police Department of the District of Columbia shall disseminate its unexpurgated adult arrest records to members of the court and law enforcement agents, including the Identification Division of the Federal Bureau of Investigation. Such dissemination shall be done without cost and without the authorization of the persons to whom such records relate.

(2) Any records disseminated under this section shall be used in a manner that complies with applicable Federal law and regulations.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "member of the court" shall include judges, prosecutors, defense attorneys (with respect to the records of their client defendants), clerks of the court, and penal and probation officers;

(2) the term "law enforcement agent" shall include police officers and Federal agents having the power to arrest; and

(3) the term "unexpurgated adult arrest records" shall include arrest fingerprint cards.

SEC. 8. ESTABLISHMENT OF DISTRICT OF COLUMBIA POLICE CORPS PROGRAM.

Education.
Loans.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Mayor of the District of Columbia, in consultation with the Chief of the Metropolitan Police Department of the District of Columbia, shall establish a pilot program under which the District shall agree to assist not more than 25 eligible college students or graduates in paying loans or other financial obligations incurred in obtaining a baccalaureate or graduate degree if such a student or graduate agrees to serve not less than 4 years as a member of the Metropolitan Police Department.

(b) APPROVAL OF PROGRAM.—Not later than 60 days after the date of the enactment of this Act, the Mayor of the District of Columbia shall submit a description of the program described in subsection (a), including any regulations proposed to implement such program, to the Committee on the District of Columbia of the United States House of Representatives and the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on

Governmental Affairs of the United States Senate for the committees' approval.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Education.
Loans.

SEC. 9. ESTABLISHMENT OF WEST VIRGINIA POLICE CORPS PROGRAM.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Governor of West Virginia, in consultation with the West Virginia Superintendent of Police, shall establish a pilot program under which West Virginia shall agree to assist not more than 25 eligible college students or graduates in paying loans or other financial obligations incurred in obtaining a baccalaureate or graduate degree if such a student or graduate agrees to serve not less than 4 years as a law enforcement officer in West Virginia.

(b) APPROVAL OF PROGRAM.—Not later than 60 days after the date of the enactment of this Act, the Governor of West Virginia shall submit a description of the program described in subsection (a), including any regulations proposed to implement such program, to the Subcommittee on General Services, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the United States Senate for the subcommittee's approval.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.R. 1502:

SENATE REPORTS: No. 101-123 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
- June 13, considered and passed House.
- Sept. 14, considered and passed Senate, amended.
- Nov. 2, House concurred in Senate amendment with amendments.
- Nov. 20, Senate concurred in House amendments.

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Public Law 101-224
101st Congress

An Act

To authorize appropriations for certain ocean and coastal programs of the National Oceanic and Atmospheric Administration.

Dec. 12, 1989
[H.R. 1668]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Oceanic and Atmospheric Administration Ocean and Coastal Programs Authorization Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceanic and Atmospheric Administration Ocean and Coastal Programs Authorization Act of 1989".

SEC. 2. NATIONAL OCEAN SERVICE.

(a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Department of Commerce for carrying out mapping, charting, and geodesy activities of the National Oceanic and Atmospheric Administration (including geodetic data collection and analysis) under the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving those activities, not more than $47,694,000 for fiscal year 1990.

(b) OBSERVATIONS AND ASSESSMENTS.—There are authorized to be ppropriated to the Department of Commerce for carrying out bservation and assessment activities of the National Oceanic and Atmospheric Administration—

(1) under the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving those activities, not more than $28,533,000 for fiscal year 1990;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), not more than $4,000,000 for fiscal year 1990; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), not more than $17,000,000 for fiscal year 1990.

(c) OCEAN AND COASTAL MANAGEMENT.—There are authorized to e appropriated to the Department of Commerce for carrying out cean and coastal management activities of the National Oceanic nd Atmospheric Administration under title III of the Marine rotection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et eq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et eq.), the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 t seq.), and any other law involving those activities, not more than 57,752,000 for fiscal year 1990.

EC. 3. OCEAN AND GREAT LAKES RESEARCH.

There are authorized to be appropriated to the Department of ommerce for carrying out ocean and Great Lakes research activities of the National Oceanic and Atmospheric Administration under the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 833a et seq.), the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), and any other law involving those activities, not more than $95,855,000 for fiscal year 1990.

SEC. 4. OYSTER DISEASE RESEARCH.

Pursuant to section 206 of the National Sea Grant College Program Act (33 U.S.C. 1125), $3,000,000 may be appropriated for priority oyster disease research in fiscal year 1990.

SEC. 5. PROGRAM SUPPORT.

(a) ADMINISTRATION AND SERVICES.—There are authorized to be appropriated to the Department of Commerce for carrying out executive direction and administrative activities of the National Oceanic and Atmospheric Administration (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, not more than $73,994,000 for fiscal year 1990.

(b) FACILITIES.—There are authorized to be appropriated to the Department of Commerce for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, not more than $4,082,000 for fiscal year 1990.

(c) MARINE SERVICES.—There are authorized to be appropriated to the Department of Commerce for carrying out marine services activities of the National Oceanic and Atmospheric Administration (including ship operations, maintenance, and support) under the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving those activities, not more than $59,910,000 for fiscal year 1990.

(d) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Department of Commerce for carrying out aircraft services activities of the National Oceanic and Atmospheric Administration (including aircraft operations, maintenance, and support) under the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and any other law involving those activities, not more than $8,446,000 for fiscal year 1990.

SEC. 6. REQUIREMENT OF NOTICE OF REPROGRAMMING

The Secretary of Commerce shall not reprogram an amount appropriated under the authority of this Act unless, before carrying out that reprogramming, the Secretary provides notice of that reprogramming to the Committee on Commerce, Science, and

Transportation of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Science, Space, and Technology of the House of Representatives.

SEC. 7. INTERNATIONAL FISHERY AGREEMENT.

Japan.
16 USC 1823 note.

Notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the governing international fishery agreement entered into between the Government of the United States and the Government of Japan, as contained in the message to the Congress from the President of the United States dated October 30, 1989, is approved by the Congress and shall enter into force and effect with respect to the United States on the date of enactment of this Act.

SEC. 8. LOBSTER CONSERVATION.

Section 307(l) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(l)) is amended—

(1) in subparagraph (H) by striking "or" at the end;

(2) in subparagraph (I) by striking the period at the end and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(J) to ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live lobster of the species Homarus americanus, that—

"(i) is smaller than the minimum possession size in effect at the time under the American Lobster Fishery Management Plan, as implemented by regulations published in part 649 of title 50, Code of Federal Regulations, or any successor to that plan, implemented under this title;

"(ii) is bearing eggs attached to its abdominal appendages; or

"(iii) bears evidence of the forcible removal of extruded eggs from its abdominal appendages.".

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.R. 1668:

HOUSE REPORTS: No. 101-119, Pt. 1 (Comm. on Merchant Marine and Fisheries), Pt. 2 (Comm. on Public Works and Transportation), and Pt. 3 (Comm. on Science, Space, and Technology).

SENATE REPORTS: No. 101-187 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 135 (1989):
Sept. 6, considered and passed House.
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Nov. 20, House concurred in Senate amendment.

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PUBLIC LAW 101-225—DEC. 12, 1989

COAST GUARD AUTHORIZATION ACT OF 1989

39-139 O - 89 - (225)

Public Law 101-225
101st Congress

An Act

Dec. 12, 1989
[H.R. 2459]

To authorize appropriations for the Coast Guard for fiscal year 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coast Guard Authorization Act of 1989.
Maritime affairs.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1989".

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF FUNDS FOR FISCAL YEAR 1990.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1990, as follows:

(1) OPERATION AND MAINTENANCE.—For the operation and maintenance of the Coast Guard, $2,312,200,000.

(2) ACQUISITION AND CONSTRUCTION.—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including related equipment, $746,300,000 of which up to $20,000,000 shall be used to rehabilitate the Coast Guard Cutter Mackinaw, and additional sums as may be necessary to carry out the Coast Guard icebreaker ship program and the Coast Guard patrol boat program, to remain available until expended.

(3) RESEARCH AND DEVELOPMENT.—For research, development, test, and evaluation, $29,000,000, to remain available until expended.

(4) RETIREMENT BENEFITS.—For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $420,800,000, to remain available until expended.

(5) ALTERATION OR REMOVAL OF BRIDGES.—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $2,300,000.

SEC. 102. AUTHORIZATION OF FUNDS FOR FISCAL YEAR 1991.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1991, as follows:

(1) OPERATION AND MAINTENANCE.—For the operation and maintenance of the Coast Guard, $2,381,500,000.

(2) ACQUISITION AND CONSTRUCTION.—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including related equipment, $501,800,000, to remain available until expended.

(3) RESEARCH AND DEVELOPMENT.—For research, development, test, and evaluation, $29,000,000, to remain available until expended.

(4) RETIREMENT BENEFITS.—For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $451,200,000, to remain available until expended.

(5) ALTERATION OR REMOVAL OF BRIDGES.—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $7,500,000.

SEC. 103. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1990.

(a) ACTIVE DUTY PERSONNEL.—As of September 30, 1990, the Coast Guard is authorized an end-of-year strength for active duty personnel of 38,750. This authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) STUDENT LOADS.—For fiscal year 1990, the Coast Guard is authorized average military training student loads as follows:

(1) RECRUIT AND SPECIAL TRAINING.—For recruit and special training, 2,687 student years.

(2) FLIGHT TRAINING.—For flight training, 110 student years.

(3) PROFESSIONAL TRAINING.—For professional training in military and civilian institutions, 390 student years.

(4) OFFICER ACQUISITION.—For officer acquisition, 900 student years.

SEC. 104. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1991.

(a) ACTIVE DUTY PERSONNEL.—As of September 30, 1991, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,300. This authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) STUDENT LOADS.—For fiscal year 1991, the Coast Guard is authorized average military training student loads as follows:

(1) RECRUIT AND SPECIAL TRAINING.—For recruit and special training, 2,787 student years.

(2) FLIGHT TRAINING.—For flight training, 110 student years.

(3) PROFESSIONAL TRAINING.—For professional training in military and civilian institutions, 390 student years.

(4) OFFICER ACQUISITION.—For officer acquisition, 900 student years.

SEC. 105. MODIFICATION AND EXTENSION OF RULES OF ROAD ADVISORY COUNCIL AND EXTENSION OF TOWING SAFETY ADVISORY COMMITTEE.

(a) RULES OF THE ROAD ADVISORY COUNCIL.—

(1) MODIFICATION AND EXTENSION.—Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended as follows:

(A) Subsection (a) is amended by striking "Rules of the Road Advisory Council" and inserting "Navigation Safety Advisory Council".

(B) Subsection (b) is amended to read as follows:

"(b) The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to the prevention of collisions, rammings, and groundings, including the Inland Rules of the Road, the International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.".

Public information. Records.

(C) Subsection (d) is amended by striking "September 30, 1990" and inserting "September 30, 1995".

33 USC 2073 note.

(2) REFERENCES.—Each reference to the Rules of the Road Advisory Council in a law, regulation, order, document, record, or paper of the United States is deemed to be a reference to the Navigation Safety Advisory Council.

(b) TOWING SAFETY COMMITTEE.—Subsection (e) of the Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation", approved October 6, 1980 (33 U.S.C. 2131a(e)), is amended by striking "September 30, 1990" and inserting "September 30, 1995".

33 USC 1231a.

SEC. 106. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE APPOINTMENTS.

Section 4508 of title 46, United States Code, is amended by adding at the end of subsection (b)(2) the following: "The Secretary may not seek or use information concerning the political affiliation of individuals in making appointments to the Committee."

TITLE II—PROGRAMS

SEC. 201. TECHNICAL AMENDMENTS TO ACT TO PREVENT POLLUTION FROM SHIPS.

The Act to Prevent Pollution from Ships (33 U.S.C. 1901-1912) is amended—

33 USC 1905.

(1) in section 6(c)(1), by striking "Annex V" and inserting "Annex I and Annex II";

33 USC 1907.

(2) in section 8(c)(1), by inserting "or of this Act" after "Convention"; and

(3) in section 8(e)(2), by inserting "or of this Act" after "MARPOL Protocol".

SEC. 202. TECHNICAL CORRECTIONS RELATING TO SAFEGUARDING MILITARY WHISTLEBLOWERS.

Section 1034 of title 10, United States Code, is amended—

(1) in subsection (c)(1), by inserting "when the Coast Guard is not operating as a service in the Navy" immediately after "in the case of a member of the Coast Guard";

(2) in subsection (c)(5), by inserting "(or to the Secretary of Transportation in the case of a member of the Coast Guard

when the Coast Guard is not operating as a service in the Navy)" immediately after "to the Secretary of Defense";

(3) in subsection (c)(6), by inserting "(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)" immediately after "to the Secretary of Defense"; and

(4) in the first sentence of subsection (e), by inserting "(except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)" immediately after "former member of the armed forces".

SEC. 203. MISCELLANEOUS PROVISIONS CONCERNING CONTINUITY OF GRADE, APPOINTMENT, AND RETIREMENT OF COAST GUARD PERSONNEL.

Title 14, United States Code, is amended—

(1) in section 52, by inserting "or admiral" immediately after "to another position as a vice admiral";

(2) in section 271(e), by inserting at the end of the first sentence, "except that advice and consent is not required for appointments under this section in the grade of lieutenant (junior grade) or lieutenant" immediately after "consent of the Senate";

(3) in section 289(c), by striking "no less than 75 percent" and inserting "no less than 50 percent";

(4) in section 736(c), by adding at the end of the following new sentence: "However, the Secretary may adjust the date of appointment—

"(1) if a delay in the finding required under section 734(a) of this title is beyond the control of the officer and the officer is otherwise qualified for promotion; or

"(2) for any other reason that equity requires."; and

(5) in section 741(a), by inserting "who have 18 years or more of service for retirement and are" after "in an active status" the third time it appears.

SEC. 204. AUTHORIZATION OF JUNIOR RESERVE OFFICERS TRAINING PROGRAM PILOT PROGRAM.

14 USC 92 note.

Florida.
Schools and colleges.

(a) In General.—The Secretary of the department in which the Coast Guard is operating (hereinafter in this section referred to as the "Secretary") may carry out a pilot program to establish and maintain a junior reserve officers training program in cooperation with the Dade County Public School System of Dade County, Florida, as part of the Maritime and Science Technology Academy established by that school system (hereinafter in this section referred to as the "Academy").

(b) Program Requirements.—A pilot program carried out by the Secretary under this section—

(1) shall be known as the "Claude Pepper Junior Reserve Officers Training Program", and

(2) shall provide to students at the Academy—

(A) instruction in subject areas relating to operations of the Coast Guard; and

(B) training in skills which are useful and appropriate for a career in the Coast Guard.

(c) Provision of Additional Support.—To carry out a pilot program under this section, the Secretary may provide to the Academy—

(1) assistance in course development, instruction, and other support activities;

(2) commissioned, warrant, and petty officers of the Coast Guard to serve as administrators and instructors; and

(3) necessary and appropriate course materials, equipment, and uniforms.

(d) EMPLOYMENT OF RETIRED COAST GUARD PERSONNEL.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the Secretary may authorize the Academy to employ as administrators and instructors for the pilot program retired Coast Guard and Coast Guard Reserve commissioned, warrant, and petty officers who request that employment and who are approved by the Secretary and the Academy.

(2) AUTHORIZED PAY.—(A) Retired members employed under paragraph (1) of this subsection are entitled to receive their retired or retainer pay and an additional amount of not more than the difference between—

(i) the amount the individual would be paid as pay and allowance if they were considered to have been ordered to active duty during that period of employment; and

(ii) the amount of retired pay the individual is entitled to receive during that period.

(B) The Secretary shall pay to the Academy an amount equal to one half of the amount described in subparagraph (A) of this paragraph, from funds appropriated for that purpose.

(C) Notwithstanding any other law, while employed under this subsection, an individual is not considered to be on active duty or inactive duty training.

10 USC 2304 note.

SEC. 205. LIMITATIONS ON CONTRACTING OF COAST GUARD SERVICES.

Notwithstanding any other provision of law, an officer or employee of the United States may not enter into a contract for procurement of performance of any function being performed by Coast Guard personnel as of January 1, 1989, before—

(1) a study has been performed by the Secretary of Transportation under the Office of Management and Budget Circular A-76 with respect to that procurement;

(2) the Secretary of Transportation has performed a study, in addition to the study required by paragraph (1) of this subsection, to determine the impact of that procurement on the multimission capabilities of the Coast Guard; and

(3) copies of the studies required by paragraphs (1) and (2) of this subsection are submitted to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 206. LOCAL HIRE.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 666. Local hire

Contracts.
Employment and unemployment.
State and local governments.

"(a) Notwithstanding any other law, each contract awarded by the Coast Guard for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of Transportation may waive the requirements of this subsection in the interest of national security or economic efficiency.

"(b) LOCAL RESIDENT DEFINED.—As used in this section, 'local resident' means a resident of, or an individual who commutes daily to, a State described in subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"666. Local hire.".

SEC. 207. REPORT ON CONTROL OF EXOTIC SPECIES.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Congress a report on the options available to control the infestation of the waters of the United States, including the Great Lakes, by exotic species from the ballast water of vessels operating on the waters of the United States. In preparing this report, the Secretary shall consult with the Secretary of the Interior, the Secretary of Commerce, the Great Lakes Fishery Commission, and other appropriate parties.

(b) EXOTIC SPECIES DEFINED.—In this section "exotic species" means nonnative fish, mollusks, crustaceans, zooplankton, and other aquatic organisms, other than sea lampreys.

SEC. 208. LAW ENFORCEMENT SURVEILLANCE.

Reports.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) submit a report to the Congress that identifies—

(A) the needs for outfitting existing Coast Guard aircraft with surveillance and reconnaissance equipment to assist in the conduct of law enforcement activities; and

(B) the cost of that equipment; and

(2) in cooperation with the Secretary of Defense, establish and submit to the Congress a plan for closing existing gaps in radar coverage along the coastline of the United States on the Gulf of Mexico and the coastline of the southeastern United States on the Atlantic Ocean.

SEC. 209. NUMBERING OF VESSELS.

Section 2101 of title 46, United States Code, is amended by inserting after paragraph (17) the following:

"(17a) 'numbered vessel' means a vessel for which a number has been issued under chapter 123 of this title.".

SEC. 210. CONSTRUCTIVE SEIZURE PROCEDURES.

Drugs and drug abuse.
21 USC 881 note.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of the Treasury, in order to avoid the devastating economic effects on innocent owners of seizures of their vessels, shall develop a procedure for constructive seizure of vessels of the United States engaged in commercial service as defined in section 2101 of title 46, United States Code, that are suspected of being used for committing violations of law involving personal use quantities of controlled substances.

SEC. 211. USER FEES REPORT CLARIFICATION.

Section 664(c) of title 14, United States Code, is amended as follows:

(1) in paragraph (1) by striking "collected stating—" and substituting "collected under any law stating—"; and

(2) in paragraph (2) by inserting "under any law" after "collected" the first time it appears.

10 USC 1552 note.

SEC. 212. BOARD FOR THE CORRECTION OF MILITARY RECORDS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall—

Regulations.

(1) amend part 52 of title 33, Code of Federal Regulations, governing the proceedings of the board established by the Secretary under section 1552 of title 10, United States Code, to ensure that a complete application for correction of military records is processed expeditiously and that final action on the application is taken within 10 months of its receipt; and

(2) appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with paragraph (1) of this subsection.

14 USC 92 note.

SEC. 213. CONSIDERATION OF MARITIME ADMINISTRATION VESSELS.

Before acquiring a vessel for use by the Coast Guard, the Secretary of Transportation or the Commandant of the Coast Guard, as appropriate, shall review the inventory of vessels acquired by the Secretary or the Secretary of Commerce as the result of a default under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271-1279c), to determine whether any of those vessels are suitable for use by the Coast Guard.

SEC. 214. REQUIREMENT TO REPORT SEXUAL OFFENSES.

(a) IN GENERAL.—Chapter 101 of title 46, United States Code is amended by:

(1) deleting section 10104; and

(2) adding the following new section:

"§ 10104. Requirement to report sexual offenses

"(a) A master or other individual in charge of a documented vessel shall report to the Secretary a complaint of a sexual offense prohibited under chapter 109A of title 18, United States Code.

"(b) A master or other individual in charge of a documented vessel who knowingly fails to report in compliance with this section is liable to the United States Government for a civil penalty of not more than $5,000.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 101 of title 46, United States Code, is amended by striking, "10104. Regulations." and inserting "10104. Requirement to report sexual offenses.".

SEC. 215. LIMITATION ON VESSEL TRANSFER FROM GULFPORT, MISSISSIPPI.

The Secretary of Transportation shall not transfer the Coast Guard cutter ACUSHNET from Gulfport, Mississippi, until at least two Coast Guard patrol boats are based permanently in Gulfport.

SEC. 216. CONSIDERATION OF DEPARTMENT OF DEFENSE HOUSING FOR COAST GUARD.

10 USC 2687 note.

Notwithstanding any other provision of law, the Coast Guard is deemed to be an instrumentality within the Department of Defense for the purposes of section 204(b) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687).

SEC. 217. PROHIBITION AGAINST REDUCTION IN SERVICES.

The Secretary of Transportation may not reduce expenditures in fiscal year 1990 or fiscal year 1991 for Coast Guard services other than drug law enforcement to increase drug law enforcement unless the Secretary first notifies the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives 30 days prior to any reduction, except that nothing in this section shall be construed to reduce the Coast Guard's ability to respond to interdiction opportunities that may arise in the course of normal activities.

SEC. 218. COST OF SECURITY AT KENNEBUNKPORT, MAINE.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall—

Reports.

(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives that identifies the costs incurred by the Coast Guard and any reallocation of assets or personnel that would have been used for search and rescue of law enforcement operations, as a result of providing security at Kennebunkport, Maine; and

(2) actively seek reimbursement of those costs from the Secretary of Treasury.

SEC. 219. VESSEL TRAFFIC SERVICE RESTORATION.

Louisiana.
New York.

The Secretary of the department in which the Coast Guard is operating shall reestablish a vessel traffic service on the Lower Mississippi River in New Orleans, and shall continue operation of the New York Harbor area and other existing vessel traffic service systems.

SEC. 220. SEARCH AND RESCUE SATELLITE SYSTEM.

(a)(1) The Secretary of Transportation shall take such action as may be necessary to upgrade the ground segment of the Search and Rescue Satellite Aided Tracking system (hereafter in this section referred to as "SARSAT").

(2) In carrying out this section, the Secretary of Transportation shall establish not less than 5 SARSAT ground stations for the purpose of providing adequate coverage of the United States area of search and rescue for which it has responsibility under the program known as "COSPAS-SARSAT". In establishing such stations, the Secretary, after consultation with the satellite search and rescue offices of the Coast Guard, the National Oceanic and Atmospheric Administration, the Air Force, the National Aeronautics and Space Administration, and the SARSAT Program Steering Group, shall locate the stations in the most optimum sites to assure complete coverage of the search and rescue areas for which the United States is responsible.

(b) The Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration, shall administer the SARSAT ground stations. Such administration shall be carried out in consultation with the Secretary of Transportation and the Secretary of Defense.

(c) For the purpose of carrying out the provisions of subsection (a) of this section, there is authorized to be appropriated $5,300,000. Moneys appropriated pursuant to this subsection shall remain available until expended.

Massachusetts.
Historic preservation.

SEC. 221. BOSTON LIGHT STATION.

(a) The Congress finds and declares the following:

(1) The Boston Light Station (hereafter in this section referred to as the "Boston Light") on Little Brewster Island, Boston Harbor, Massachusetts, is the Nation's oldest lighthouse station.

(2) The Boston Light is a National Historic Landmark and Little Brewster Island is listed in the National Register of Historic Places. As such, they should be administered and maintained in a way that preserves for public enjoyment and appreciation their special historic character.

(3) Continued manned operation of the Boston Light will preserve its special historic character. Any proposal to automate or modernize Boston Light must be consistent with the provisions of sections 106 and 110 of the National Historic Preservation Act (16 U.S.C. 470f and 470h-2).

(4) Efforts should be undertaken that will facilitate public access to, and enhance the public enjoyment and appreciation of, the Boston Light and Little Brewster Island.

(b) The Boston Light shall be operated on a permanently manned basis. The amounts authorized to be appropriated under sections 101 and 102 include funds—

(1) for maintenance of the keeper's house and of the Boston Lighthouse; and

(2) to enhance public access to the Boston Light and Little Brewster Island, including making pier improvements on the island.

(c) The Secretary of Transportation shall, in consultation with the Secretary of Interior, the Massachusetts Department of Environmental Management, the Massachusetts Historical Preservation Officer, appropriate local government entities, and private preservation groups, develop a strategy to implement policies regarding the ownership, maintenance, staffing, and use of the Boston Light. The strategy shall propose ways—

(1) to provide improved public access to the Boston Light and Little Brewster Island; and

(2) to ensure that the special historic character of the Boston Light will be preserved, with the continuing presence of Coast Guard personnel, so as to provide the best possible public enjoyment and appreciation.

SEC. 222. COAST GUARD ENVIRONMENTAL COMPLIANCE AND RESTORATION PROGRAM.

(a) ENVIRONMENTAL COMPLIANCE AND RESTORATION PROGRAM.—Title 14, United States Code, is amended by adding the following new chapter 19 after chapter 17:

"CHAPTER 19—ENVIRONMENTAL COMPLIANCE AND RESTORATION PROGRAM

"Sec.
"690. Definitions.
"691. Environmental Compliance and Restoration Program.
"692. Environmental Compliance and Restoration Account.
"693. Annual Report to Congress.

"§ 690. Definitions

"For the purposes of this chapter—

"(1) 'environment', 'facility', 'person', 'release', 'removal', 'remedial', and 'response' have the same meaning they have in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601);

"(2) 'hazardous substance' has the same meaning it has in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), except that it also includes the meaning given 'oil' in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

"(3) 'pollutant' has the same meaning it has in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362).

"§ 691. Environmental Compliance and Restoration Program

Hazardous materials.
Safety.
Public buildings and grounds.

"(a) The Secretary shall carry out a program of environmental compliance and restoration at current and former Coast Guard facilities.

"(b) Program goals include:

"(1) Identifying, investigating, and cleaning up contamination from hazardous substances and pollutants.

"(2) Correcting other environmental damage that poses an imminent and substantial danger to the public health or welfare or to the environment.

"(3) Demolishing and removing unsafe buildings and structures, including buildings and structures at former Coast Guard facilities.

"(4) Preventing contamination from hazardous substances and pollutants at current Coast Guard facilities.

"(c)(1) The Secretary shall respond to releases of hazardous substances and pollutants—

"(A) at each Coast Guard facility the United States owns, leases, or otherwise possesses;

"(B) at each Coast Guard facility the United States owned, leased, or otherwise possessed when the actions leading to contamination from hazardous substances or pollutants occurred; and

"(C) on each vessel the Coast Guard owns or operates.

"(2) Paragraph (1) of this subsection does not apply to a removal or remedial action when a potentially responsible person responds under section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9622).

"(3) The Secretary shall pay a fee or charge imposed by a state authority for permit services for disposing of hazardous substances or pollutants from Coast Guard facilities to the same extent that nongovernmental entities are required to pay for permit services. This paragraph does not apply to a payment that is the responsibility of a lessee, contractor, or other private person.

"(d) The Secretary may agree with another Federal agency for that agency to assist in carrying out the Secretary's responsibilities under this chapter. The Secretary may enter into contracts, cooperative agreements, and grant agreements with State and local governments to assist in carrying out the Secretary's responsibilities under this chapter. Services that may be obtained under this subsection include identifying, investigating, and cleaning up off-site contamination that may have resulted from the release of a hazardous substance or pollutant at a Coast Guard facility.

Contracts.
Insurance.

"(e) Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9619) applies to response action contractors that carry out response actions under this chapter. The Coast Guard shall indemnify response action contractors to the extent that adequate insurance is not generally available at a fair price at the time the contractor enters into the contract to cover the contractor's reasonable, potential, long-term liability.

"§ 692. Environmental Compliance and Restoration Account

"(a) There is established for the Coast Guard an account known as the Coast Guard Environmental Compliance and Restoration Account. All sums appropriated to carry out the Coast Guard's environmental compliance and restoration functions under this chapter or another law shall be credited or transferred to the account and remain available until expended.

"(b) Funds may be obligated or expended from the account to carry out the Coast Guard's environmental compliance and restoration functions under this chapter or another law.

"(c) In proposing the budget for any fiscal year under section 1105 of title 31, United States Code, the President shall set forth separately the amount requested for the Coast Guard's environmental compliance and restoration activities under this chapter or another law.

"(d) Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607) for the Secretary's response actions at current and former Coast Guard facilities shall be credited to the account.

"§ 693. Annual Report to Congress

"(a) The Secretary shall submit to Congress a report each fiscal year describing the progress the Secretary has made during the preceding fiscal year in implementing this chapter.

"(b) Each report shall include:

"(1) A statement for each facility or vessel for which the Secretary is responsible under section 691(c) of this title where a release of a hazardous substance or pollutant has been identified.

"(2) The status of response actions contemplated or undertaken at each facility.

"(3) The specific cost estimates and budgetary proposals for response actions contemplated or undertaken at each facility.

"(4) The total amount required to clean up contamination at all identified facilities.".

(b) TITLE ANALYSIS.—The title analysis at the beginning of part I of title 14, United States Code, is amended by adding after item 17:

"19. Coast Guard Environmental Compliance and Restoration Program........ 690".

(c) PRIOR AUTHORIZATION REQUIREMENT.—Section 662 of title 14, United States Code, is amended by adding the following new paragraph:

"(5) For environmental compliance and restoration at Coast Guard facilities.".

SEC. 223. BLOCK ISLAND SOUTHEAST LIGHTHOUSE PRESERVATION.

Rhode Island.
Real property.

(a) CONVEYANCE.—(1) The Secretary of the department in which the Coast Guard is operating may convey, by any appropriate means, all right, title and interest of the United States in the Block Island Southeast Lighthouse to the Block Island Southeast Lighthouse Foundation (hereafter referred to as the "Foundation") of the town of New Shoreham, Rhode Island.

(2) The purpose of this conveyance is to establish and maintain a nonprofit center for the public at the Block Island Southeast Lighthouse for interpretation and preservation of the culture of the United States Coast Guard and Block Island's maritime history.

(3) The Secretary may not transfer the Block Island Southeast Lighthouse until the Foundation or the State of Rhode Island, acting on its behalf, requests from the Secretary that the transfer occur.

(b) TERMS AND CONDITIONS.—The conveyance shall be made—

(1) without payment of consideration;

(2) subject to the condition that if the property, or any part of the property, ceases to be used for the purpose of this section, title to all such property shall be deemed to have immediately reverted to the United States; and

(3) subject to such other terms and conditions as the Secretary of the department in which the Coast Guard is operating may impose.

(c) REQUIREMENTS.—The conveyance shall include provisions necessary to assure that—

(1) the light, antennae, sound signal, and associated equipment which are active aids to navigation shall continue to be operated and maintained by the United States;

(2) the Foundation will not interfere or allow interference in any manner with navigational aids without written permission of the United States;

(3) there is reserved to the United States the right to relocate, replace, or add any navigational aids, or make any changes on any portion of the property as may be necessary for navigation purposes;

(4) the United States shall have the right, at any time, to enter the property without notice to maintain navigational aids; and

(5) the United States shall have an easement for access to the property to maintain navigational aids.

(d) PROPERTY DESCRIPTION.—The Secretary of the department in which the Coast Guard is operating shall identify, describe, and determine the property to be conveyed under this section.

(e) DEFINITION.—For purposes of this section, "Block Island Southeast Lighthouse" means the lighthouse and attached keeper's dwelling, several ancillary buildings, a fog signal, and land (but not less than nine acres) necessary to carry out the purposes of this section located in the town of New Shoreham, Rhode Island.

(f) STRATEGY.—The Secretary of Transportation shall within six months of the date of enactment, in consultation with the Secretary of the Interior, appropriate state, local, and other governmental entities, and private preservation groups, develop a strategy regarding the ownership, maintenance, operation, and use of the Block Island Southeast Lighthouse that will preserve the special historic character of the Lighthouse and ensure public access. Any proposal must be consistent with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.), other applicable law, and efforts to interpret and preserve the material culture of the United States Coast Guard and Block Island's maritime history.

TITLE III—MISCELLANEOUS

SEC. 301. DOCUMENTATION OF VESSELS.

(a) TECHNICAL AMENDMENTS.—Chapter 121 of title 46, United States Code, is amended as follows:

(1) Section 12101(b) is amended—

(A) in paragraph (1), by striking "registry as" and inserting "registry endorsement as";

(B) in paragraph (2), by striking "coastwise license" and inserting "coastwise endorsement";

(C) in paragraph (3), by striking "Great Lakes license" and inserting "Great Lakes endorsement";

(D) by repealing paragraph (4); and

(E) by redesignating paragraph (5) as paragraph (4).

(2) Section 12102 is amended—

(A) in the matter preceding paragraph (1) of subsection (a)—

(i) by inserting "that is" before "not", and

(ii) by inserting "or is not titled in a State" after "foreign country";

(B) by striking "(b)(1)" and inserting "(c)(1)";

(C) in subsection (c)(1) (as redesignated by subparagraph (B)), by striking "fishery license" and inserting "fishery endorsement"; and

(D) by repealing subsection (c).

(3) Section 12103 is amended—

(A) in subsection (a), by striking "of one of the types" and inserting "endorsed with one or more of the endorsements"; and

(B) in subsection (b)—

(i) by striking "(b)" and inserting "(b)(1)"; and

(ii) by adding at the end the following new paragraph:

"(2) The Secretary shall require each person applying to document a vessel to provide—

"(A) the person's social security number; or

"(B) for a person other than an individual—

"(i) the person's taxpayer identification number; or

"(ii) if the person does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the person and who signs the application for documentation for the vessels.".

(4) Section 12104(2) is amended by striking "vessel license," and inserting "endorsement,".

(5) Section 12105 is amended—

(A) by amending subsection (a) to read as follows:

"(a) A certificate of documentation may be endorsed with a registry endorsement.";

(B) in subsection (b), by inserting "endorsement" after "registry";

(C) by repealing subsections (c) and (d); and

(D) in the catchline, by inserting "endorsements" after "Registry".

(6) Section 12106 is amended—

(A) in subsection (a), by striking "A coastwise license or, as provided in section 12105(c) of this title, an appropriately endorsed registry, may be issued" and inserting "A certificate of documentation may be endorsed with a coastwise endorsement";

(B) in subsection (b), by striking "coastwise license or an appropriately endorsed registry" and inserting "certificate of documentation with a coastwise endorsement";

(C) in subsection (c), by striking "license" and inserting "endorsement";

(D) by repealing subsection (d); and

(E) in the catchline, by striking "licenses and registry" and inserting "endorsements".

(7) Section 12107 is amended—

(A) in subsection (a), by striking "A Great Lakes license, or as provided in section 12105(c) of this title, an appropriately endorsed registry, may be issued" and inserting "A certificate of documentation may be endorsed with a Great Lakes endorsement";

(B) by amending subsection (b) to read as follows:

Canada.
Commerce and trade.

"(b) Subject to the laws of the United States regulating trade with Canada, only a vessel for which a certificate of documentation with a Great Lakes endorsement is issued may be employed on the Great Lakes and their tributary and connecting waters in trade with Canada.";

(C) by repealing subsection (c); and

(D) in the catchline, by striking "licenses and registry" and inserting "endorsements".

(8) Section 12108 is amended—

Fish and fishing.

(A) in subsection (a), by striking "A fishery license or, as provided in section 12105(c) of this title, an appropriately endorsed registry, may be issued" and inserting "A certificate of documentation may be endorsed with a fishery endorsement";

(B) in subsection (a)(1), by striking "and";

(C) in subsection (b), by striking "fishery license or an appropriately endorsed registry" and inserting "certificate of documentation with a fishery endorsement";

(D) in subsection (C), by striking "license" and inserting "endorsement";

(E) by repealing subsection (d); and

(F) in the catchline, by striking "licenses and registry" and inserting "endorsements".

(9) Section 12109 is amended—

Recreation.

(A) by striking subsection (a) and inserting the following:

"(a) A certificate of documentation with a recreational endorsement may be issued for a vessel that is eligible for documentation.";

(B) in subsection (b)—

(i) by striking "licensed recreational vessel" and inserting "documented vessel with a recreational endorsement"; and

(ii) by striking "Such" and inserting "A recreational";

(C) by adding at the end the following new subsection:

Recreation.

"(c) A documented vessel operating under a recreational endorsement may be operated only for pleasure."; and

(D) in the catchline, by striking "vessel licenses" and inserting "endorsements".

(10) Section 12110 is amended—

(A) by amending subsection (a) to read as follows:

"(a) A vessel may not be employed in a trade except a trade covered by the endorsement issued for that vessel."; and

(B) in subsection (c)—

(i) by striking "certificate of documentation" and inserting "endorsement",

(ii) by striking "recreational vessel" and inserting "vessel with a recreational endorsement", and

(iii) by striking "except" and inserting "other than".

(11) Section 12112 is amended—

(A) in subsection (a), by striking "an appropriate document" and inserting "a certificate of documentation with an appropriate endorsement"; and

(B) in subsection (b), by striking "an appropriate" and inserting "a".

(12) The table of sections at the beginning of chapter 121 is amended by striking the entries for sections 12105 through 12109 and inserting the following:

"12105. Registry endorsements.
"12106. Coastwise endorsements.
"12107. Great Lakes endorsements.
"12108. Fishery endorsements.
"12109. Recreational endorsements.".

46 USC 12111 note.

(b) DOCUMENTATION SURRENDER AND INVALIDATION.—Section 12111(c)(3) of title 46, United States Code, does not apply to a mortgage that—

(1) was filed or recorded before January 1, 1989; and

(2) was not a preferred mortgage (as that term is defined in section 31301(6) of that title) on that date.

SEC. 302. VESSEL IDENTIFICATION SYSTEMS.

Chapter 125 of title 46, United States Code, is amended as follows:

(1) Section 12501(b)(2) is amended to read as follows:

"(2) identifying the owner of the vessel, including—

"(A) the owner's social security number; or

"(B) for an owner other than an individual—

"(i) the owner's taxpayer identification number; or

"(ii) if the owner does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the owner and who signed the application for documentation or numbering for the vessel;".

(2) Section 12503(a)(2) is amended to read as follows:

"(2) identifies the owner of the vessel, including by—

"(A) the owner's social security number; or

"(B) for an owner other than an individual—

"(i) the owner's taxpayer identification number; or

"(ii) if the owner does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the owner and who signed the application for documentation or numbering for the vessel;".

(3) Section 12504 is amended by striking "Secretary, the Secretary of Transportation—" and inserting "Secretary of Transportation, the Secretary—".

SEC. 303. COMMERCIAL INSTRUMENTS AND MARITIME LIENS.

Chapter 313 of title 46, United States Code, is amended as follows:

(1) Section 31306 is amended—

(A) in subsection (a), by striking "When" and inserting "Except as provided by the Secretary of Transportation, when" and by striking "of Transportation"; and

(B) in subsection (c), by striking "An" and inserting "Except as provided by the Secretary, an".

(2) Section 31321(c) is amended—

(A) by striking "that has not yet been documented," and inserting "for which an application for documentation is filed,"; and

(B) by striking "party whose name and address is stated on" and inserting "interested party to";

(3) Section 31322 is amended—

(A) by amending subsection (a)(2) to read as follows:

Fish and fishing.
Recreation.

"(2) Paragraph (1)(D) of this subsection does not apply to—

"(A) a documented vessel that has a fisheries endorsement or a recreational endorsement, or both endorsements; or

"(B) a vessel for which an application for documentation with a fisheries endorsement or a recreational endorsement, or both endorsements, has been filed.";

(B) in subsection (d)(1), by striking "representing financing of a vessel under State law that is made under applicable State law" and inserting "granting a security interest perfected under State law"; and

(C) in subsection (e) (1) and (2) by striking "the validity of the preferred mortgage" each place that phrase appears and inserting "the status of the preferred mortgage".

(4) Section 31325 is amended by amending subsections (b) and (c) to read as follows:

"(b) On default of any term of the preferred mortgage, the mortgage may—

"(1) enforce the perferred mortgage lien in a civil action in rem for a documented vessel, a vessel to be documented under chapter 121 of this title, or a foreign vessel; and

Claims.

"(2) enforce a claim for the outstanding indebtedness secured by the mortgaged vessel in—

"(A) a civil action in personam in admiralty against the mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness; and

"(B) a civil action against the mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness; and

Courts, U.S.

"(c) The district courts have original jurisdiction of a civil action brought under subsection (b) (1) or (2) of this section. However, for a documented vessel, a vessel to be documented under chapter 121 of this title, or a foreign vessel, this jurisdiction is exclusive of the courts of the States for a civil action brought under subsection (b)(1) of this section."

(5) Section 31341(a)(3) is amended by striking "mangement" and inserting "management".

(6) Section 31342 is amended—

(A) by striking "A person providing necessaries to a vessel (except a public vessel) on the order of a person listed in section 31341 of this title" and inserting "(a) Except as provided in subsection (b) of this section, a person providing necessaries to a vessel on the order of the owner"; and

(B) by adding the following new subsection (b) at the end:

"(b) This section does not apply to a public vessel.".

SEC. 304. AMENDMENTS TO THE SHIPPING ACT, 1916.

(a) Exemption From Requirement of Approval by Secretary.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), is amended in subsection (c)(1) by inserting "or the last documentation of which was under the laws of the United States" before the semicolon at the end;

(2) in subsection (c)(2) by inserting ", or a vessel the last documentation of which was under the laws of the United States," after "a documented vessel";

(3) in subsection (d) (1) and (2), by striking "or control in" and inserting "in or control of"; and

(4) adding the following new paragraph:

"(4) A person that charters, sells, transfers, or mortgages a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.".

(b) Remission of Forfeiture.—Section 38 of the Shipping Act, 1916 (46 App. U.S.C. 836) is amended by striking "duties." and inserting "duties, except that forfeitures may be remitted without seizure of the vessel.".

SEC. 305. CIVIL PENALTY PROCEDURES.

Chapter 3 of title 49, United States Code, is amended—

(1) by adding at the end of subchapter II the following new section:

"§ 336. Civil penalty procedures

"(a) After notice and an opportunity for a hearing, a person found by the Secretary of Transportation to have violated a provision of law that the Secretary carries out through the Maritime Administrator or the Commandant of the Coast Guard or a regulation prescribed under that law by the Secretary for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

"(b) The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

"(c) If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

"(d) The Secretary may refund or remit a civil penalty collected under this section if—

"(1) application has been made for refund or remission of the penalty within one year from the date of payment; and

"(2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed."; and

(2) in the table of sections, by adding at the end the following:

"336. Civil penalty procedures.".

SEC. 306. EXEMPTION OF CERTAIN FISHING INDUSTRY FROM INSPECTION REQUIREMENTS.

Section 403(a) of Public Law 98-364 is amended by striking "1990" in the first sentence and inserting "1991". 46 USC 3302 note.

SEC. 307. LAWS REPEALED.

The following laws are repealed:

(1) Section 4172 of the Revised Statutes of the United States (46 App. U.S.C. 41).

(2) Section 8 of Public Law 96-376 (46 App. U.S.C. 382b-1).

(3) Section 9(a) of the Shipping Act, 1916 (46 App. U.S.C. 808(a)).

(4) Sections 15 and 34 of the Merchant Marine Act, 1920. 41 Stat. 993, 1007.

(5) Section 701 of the Merchant Marine Act, 1928 (46 App. U.S.C. 891s).

(6) Section 6 of the Act of June 16, 1933 (46 App. U.S.C. 891y).

(7) Sections 201(b), 201(g), 510(h), 612, 804(c)(2), 805(e), 806(a), 807, 1106, 1107, and 1109 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1111(b), 1111(g), 1160(h), 1182, 1222(c)(2), 1223(e), 1224, 1225, 1276, 1279, and 1279b).

(8) Section 402 of the Act of October 8, 1940 (46 App. U.S.C. 1155a).

(9) Section 101 of the Act of June 25, 1958 (46 App. U.S.C. 1242-1).

(10) Sections 3(b) and 9 of the Act of December 13, 1977 (46 App. U.S.C. 1502(b) and 1508).

(11) Sections 20(a), 21, and 22 of the Shipping Act of 1984 (46 App. U.S.C. 1720).

(12) Sections 3(b)-(f), 4, 5(a), (b), and (d), 6, 7, 8(a)-(c), 10, 11(b), 12(b)-(e), and 13 of the Act of March 8, 1946 (50 App. U.S.C. 1736(b)-(f), 1737, 1738(a), (b), and (d), 1739, 1740, 1741(a)-(c), 1743, 1744(b), 1745(b)-(f), and 1746).

(13) Section 2 of the Act of June 29, 1949 (50 App. U.S.C. 1738a).

(14) The Act of September 21, 1959 (50 App. U.S.C. 1745a).

(15) Sections 1-5 of the Act of March 21, 1945 (50 App. U.S.C. 1721-1725).

(16) The Act of August 20, 1954 (50 App. U.S.C. 2391-2394).

(17) Section 4377 of the Revised Statutes of the United States (46 App. U.S.C. 325).

SEC. 308. COASTWISE DOCUMENTATION AND OPERATION.

(a) DOCUMENTATION.—Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation endorsed with a coastwise endorsement for each of the following vessels:

(1) Camelot (United States official number 536408);
(2) Crili (United States official number 656976);
(3) Da Warrior (Hawaiian Registration number HA 161 CP);
(4) Harbor Exec (United States official number 563895);
(5) Jamal (United States official number 611165);
(6) Karlissa (United States official number 950453);
(7) Lazy Jack (Maine Registration number ME9395G);
(8) Magnum Force (United States official number 287968);
(9) Terangi No. 2 (United States official number 572048);
(10) ¾ Time (United States official number 907962); and
(11) Winddancer (United States official number 955031).

(b) OPERATION.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the submersible vessel PC-1501 may engage in the coastwise trade.

46 USC 12101 note.

SEC. 309. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act take effect on the date of the enactment of this Act.

(b) EXCEPTIONS.—

State and local governments.

(1) The amendments made by section 1(a)(2) take effect January 1, 1989, except that the amendment made by subparagraph (A) of such section does not apply to a vessel titled in a State until one year after the Secretary of Transportation prescribes guidelines for a titling system under section 13106(b)(8) of title 46, United States Code.

(2) The amendments made by section 1(a)(3) take effect on the 180th day after the date of the enactment of this Act.

SEC. 310. SUBSTITUTION OF VESSEL.

46 USC 12108 note.

Section 4(c)(2) of 101 Stat. 1780 is amended by adding after "1987" the following: ", except that an alternative vessel of no greater tonnage than the vessel in the application may be substituted, if that substitution is made by the original applicant".

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.R. 2459 (S. 1512):

HOUSE REPORTS: No. 101-227 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-182 accompanying S. 1512 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 7, considered and passed House.
Nov. 17, considered and passed Senate, amended, in lieu of S. 1512.
Nov. 20, House concurred in Senate amendment with an amendment.
Nov. 21, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.

○

DRUG-FREE SCHOOLS AND COMMUNITIES ACT AMENDMENTS OF 1989

39-139 O - 90 (226)

Public Law 101-226
101st Congress

An Act

Dec. 12, 1989
[H.R. 3614]

To amend the Drug-Free Schools and Communities Act of 1986 to revise certain requirements relating to the provision of drug abuse education and prevention program in elementary and secondary schools, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Drug-Free Schools and Communities Act Amendments of 1989.
20 USC 2701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug-Free Schools and Communities Act Amendments of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by inserting after "part C" the following: "and section 5136"; and

(ii) by striking "and $20,000,000" and all that follows and inserting the following: "$20,000,000 for the fiscal year 1990, and $35,000,000 for each of the fiscal years 1991, 1992, and 1993."; and

(B) in subparagraph (B), by striking "$230,000,000" and inserting "$215,000,000"; and

(2) by adding at the end the following new paragraph:

"(3) There are authorized to be appropriated for purposes of carrying out section 5136 $25,000,000 for each of the fiscal years 1991, 1992, and 1993.".

SEC. 3. RESERVATIONS AND STATE ALLOTMENTS.

Section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended—

(1) in subsection (a), by striking "From" and inserting "Except as provided in subsection (c)";

(2) in subsection (b), by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(3) by adding at the end the following new subsections:

"(c) DISTRIBUTION OF APPROPRIATIONS.—Except for funds provided for any fiscal year for part C of this title and sections 5136 and 5137, and for fiscal year 1991 for section 5146, the Secretary shall distribute any amounts appropriated or otherwise made available to carry out this title for any fiscal year in the following manner:

"(1) In any year in which the total of such amounts is not more than the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989, the Secretary shall distribute such total amount as provided in subsections (a) and (b).

"(2) In any year in which the total of such amounts is greater than the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989, the amount in excess of the total amount appropriated or otherwise made available to carry out this title for the fiscal year 1989 shall be distributed as follows:

"(A) Such amount as is necessary to carry out the reservations under paragraphs (1), (2), and (3) of subsection (a);

"(B)(i) Except as provided in clause (ii), not more than $14,700,000 to be allocated to the chief executive officer of each State, in an amount which bears the same ratio to such amount as the school-age population of the State bears to the school-age population of all States.

"(ii) For fiscal year 1990, in addition to amounts made available under clause (i), $25,000,000 shall be available for distribution to the chief executive officer of each State in an amount which bears the same ratio to such additional amount as the school-age population of the State bears to the school-age population of all States. Funds available under this clause shall be used to carry out section 5136.

"(C) Subject to subparagraph (D), of the remainder—

"(i) 50 percent of such remainder shall be distributed to the States under subsection (b); and

"(ii) 50 percent of such remainder shall be distributed to the States on the basis of the amounts received by each State under part A of title I of chapter 1 for the preceding fiscal year.

"(D) Under subparagraph (C), no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

"(d) DEFINITION.—For the purposes of this section, the term 'State' means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.".

SEC. 4. USE OF ALLOTMENTS BY STATES.

Section 5121 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3191) is amended by adding at the end the following new subsection:

Grants.

"(c) USE OF ADDITIONAL AMOUNTS.—Any amounts received by a State under section 5112(c)(2)(C) shall be used by the State educational agency to make grants to local educational agencies for purposes of carrying out programs in accordance with section 5125. The State educational agency shall distribute any such amounts among the local educational agencies within the State on the basis of the amounts received by each such local educational agency under part A of title I of chapter 1 for the preceding fiscal year.".

SEC. 5. STATE PROGRAMS.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended—

(1) in subsection (a) by striking "local governments" and all that follows through "organizations" and inserting "parent groups, community action agencies, community-based organizations, and other public entities and private nonprofit entities";

(2) in subsection (a)—

(A) in paragraph (6) by striking "and" at the end thereof;

(B) in paragraph (7) by striking the period at the end thereof and inserting "; and"; and

(C) by adding at the end of such subsection the following new paragraph:

"(8) to promote, establish, and maintain drug-free school zones for schools within the State.".

Grants.
Contracts.
Children and youth.

(3) in subsection (b) by striking the second sentence of paragraph (1) and inserting the following: "The chief executive officer shall make grants to or enter into contracts with public entities or private nonprofit entities for purposes of providing community-based programs of coordinated services that are designed for high-risk youths, including programs that use strategies to improve skills of such youths such as vocational and educational counseling and job skills training, giving priority to assisting community action agencies, community-based organizations, parent groups, and other entities which are representative of communities or significant segments of communities and which have the capability to provide such services. The chief executive officer shall also make grants to private nonprofit organizations to develop new strategies to communicate anti-drug abuse messages to youths.";

(4) in subsection (b)(2)—

(A) in subparagraph (I) by striking "or";

(B) in subparagraph (J) by striking the period and inserting "; and"; and

(C) by adding after subparagraph (J) the following new subparagraph:

"(K) is a juvenile in a detention facility within the State.".

(5) by adding at the end thereof the following new subsection:

"(d) Drug Testing Programs.—For each fiscal year, amounts made available to the chief executive officer of a State by section 5121(a) may be used for nondiscriminatory random drug testing programs for students voluntarily participating in athletic activities only in schools which voluntarily choose to participate in such a program. Nothing in this subsection shall prescribe or prohibit the use of drug testing programs.".

SEC. 6. STATE APPLICATIONS.

Subsection (b) of section 5123 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3193) is amended—

(1) in paragraph (7), by inserting before the semicolon the following: ", and judicial officials";

(2) by striking "and" at the end of paragraph (10);

(3) by striking the period at the end of paragraph (11) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(12) include a plan for providing innovative programs of drug abuse education for juveniles in detention facilities within the State as required by section 5122(b)(1)(A).".

SEC. 7. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

Section 5124 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Grants to Local and Intermediate Educational Agencies.—(1) Each State educational agency shall use a sum which shall not be less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local educational agencies, intermediate educational agencies, and consortia in the State, in accordance with applications approved under section 5126.

"(2) From the sum described in paragraph (1), the State educational agency shall distribute funds for use among local educational agencies, intermediate educational agencies, and consortia in the State on the basis of the relative enrollments in public schools and private nonprofit schools served by such agencies and consortia.

"(3)(A) Not later than July 1 of each year, the State educational agency shall inform each local educational agency, intermediate educational agency, and consortium in the State of the amount allocated to such agency or consortium from amounts available under subsections (b) and (c) of section 5121. If a local educational agency or a consortium of local educational agencies chooses not to apply to receive the amount allocated to such agency under this subsection, the State educational agency—

"(i) shall distribute such amount to the intermediate educational agency serving such local educational agency or consortium; or

"(ii) may, if it is able to facilitate the arrangement of a consortium among local educational agencies in the State that choose not to apply to receive the amounts allocated to such agencies under this subsection, distribute such amount to such consortium.

"(B) The State educational agency shall distribute to a local educational agency, intermediate educational agency, or consortium the amount allocated to such agency or consortium from amounts available under subsections (b) and (c) of section 5121 upon the approval of an application for such agency under section 5126.

"(4)(A) Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date that a local educational agency, intermediate educational agency, or consortium under this subsection receives its allocation under this subsection—

"(i) such agency or consortium shall return to the State educational agency any funds from such allocation that remain unobligated; and

"(ii) the State educational agency shall reallocate any such amount to local educational agencies, intermediate educational agencies, or consortia that have plans for using such amount for programs or activities on a timely basis.

"(B) In any fiscal year, a local educational agency, intermediate educational agency, or consortium may retain for obligation in the succeeding fiscal year—

"(i) an amount equal to not more than 25 percent of the allocation it receives under this subsection for such fiscal year; or

"(ii) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency,"; and

(2) in subsection (b)—

(A) in paragraph (2), by inserting after "materials" the following: "that clearly and consistently teach that illicit drug use is harmful"; and

(B) in paragraph (5), by striking "2.5 percent" and all that follows and inserting "5 percent of the amounts available under subsections (b) and (c) of section 5121.".

SEC. 8. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

Section 5125 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195) is amended in subsection (a)—

(1) in paragraph (2), by inserting before the semicolon the following: ", which—

"(A) should, to the extent practicable, employ counselors whose sole duty is to provide drug abuse prevention counseling to students;

"(B) may include the use of drug-free older students as positive role models and instruction relating to—

"(i) self-esteem;

"(ii) drugs and drug addiction;

"(iii) decisionmaking and risk-taking;

"(iv) stress management techniques; and

"(v) assertiveness;

"(C) may bring law enforcement officers into the classroom to provide antidrug information and positive alternatives to drug use, including decisionmaking and assertiveness skills; and

"(D) in the case of a local educational agency that determines it has served all students in all grades, such local educational agency may target additional funds to particularly vulnerable age groups, especially those in grades 4 through 9";

(2) in paragraph (4)—

(A) by inserting "and intervention" after "drug abuse prevention"; and

(B) by striking the semicolon at the end and inserting the following:

", which may include—

"(A) the employment of counselors, social workers, psychologists, or nurses who are trained to provide drug abuse prevention and intervention counseling; or

"(B) the provision of services through a contract with a private nonprofit organization that employs individuals who are trained to provide such counseling;";

(3) in paragraph (8), by striking "educational personnel" and inserting "school personnel"; and

(4) in paragraph (11) by striking "and" at the end thereof;

(5) by redesignating paragraph (12) as paragraph (13); and

(6) by adding after paragraph (11) the following new paragraph:

"(12) model alternative schools for youth with drug problems that address the special needs of such students through education and counseling; and".

SEC. 9. LOCAL APPLICATIONS.

Section 5126 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting before the period the following: "before the expiration of the 120-day period beginning on the date that the State educational agency notifies the local educational agency, intermediate educational agency, or consortium of the amount allocated to such agency or consortium under section 5124(a)."; and

(B) in paragraph (2)—

(i) in subparagraph (H), by inserting before the semicolon the following: "and with appropriate community-based organizations";

(ii) by striking "and" at the end of subparagraph (L);

(iii) by redesignating subparagraph (M) as subparagraph (R); and

(iv) by inserting after subparagraph (L) the following new subparagraphs:

"(M) describe how the applicant will ensure that the schools will be an important part of a community-wide effort to achieve a drug-free population;

"(N) describe how, to the extent practicable, assistance provided under this title will be used to provide trained counselors, social workers, psychologists, and nurses to carry out drug abuse prevention and intervention activities in addition to any individuals so employed by the applicant on the date of the enactment of the Drug-Free Schools and Communities Act Amendments of 1989;

"(O) provide assurances that the applicant will maintain and make available for distribution a list of local resources for substance abuse counseling and treatment;

"(P) provide assurances that the applicant has reviewed curricula that it intends to use and that such curricula will meet the needs of the schools served by the applicant;

"(Q) describe the training that will be provided for teachers and other personnel who are involved in the implementation of programs to be carried out by the applicant under this part; and"; and

(2) by amending paragraph (1) of subsection (b) to read as follows:

Reports.

"(1) Each applicant shall annually submit to the State educational agency a progress report on the implementation of its plan. The progress report shall include—

"(A) the applicant's significant accomplishments under the plan during the preceding year;

"(B) the extent to which the original objectives of the plan are being achieved;

"(C) a discussion of the method used by the applicant to evaluate the effectiveness of its drug education program carried out under its plan; and

"(D) the results of the evaluation described in subparagraph (C).".

SEC. 10. REPORTS.

Subsection (a) of section 5127 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3197) is amended in paragraph (3)—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(H) an evaluation of the effectiveness of State and local drug and alcohol abuse education and prevention programs.".

SEC. 11. TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL.

(a) AMENDMENT TO PART HEADING.—The heading for part C of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198 et seq.) is amended to read as follows:

"PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL".

20 USC 3201. (b) PROGRAM AND ALLOCATIONS.—Subsection (b) of section 5128 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198) is amended by striking "educational personnel" in the first sentence and inserting "school personnel".

SEC. 12. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

(a) IN GENERAL.—Section 5131 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211) is amended—

(1) in paragraph (4) of subsection (a), by striking "subsection (d)" and inserting "subsection (c)";

(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(3) by striking subsection (e).

20 USC 3211 note. (b) TRANSITION PROVISION.—Any amounts appropriated for the fiscal year 1990 and for any subsequent fiscal year for the purpose of making training grants under section 5131(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211) as such section existed on the day before the date of the enactment of this Act shall be used by the Secretary of Education for the purpose of making grants under section 5128 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3198).

SEC. 13. FEDERAL ACTIVITIES.

Subsection (b) of section 5132 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraphs:

"(6) use private nonprofit organizations to develop innovative strategies to communicate antidrug abuse messages to youths and to eliminate drug abuse from the communities of the Nation; and

"(7) as necessary, evaluate programs assisted under this title.".

SEC. 14. EMERGENCY GRANTS.

Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3211 et seq.) is amended by adding at the end the following new section:

20 USC 3216.

"SEC. 5136 EMERGENCY GRANTS.

"(a) PROGRAM AUTHORIZED.—Except as provided under subsection (d), the Secretary, in consultation with the Attorney General and the Secretary of Health and Human Services, shall make grants to eligible local educational agencies that demonstrate significant need for additional assistance for purposes of combating drug and alcohol abuse by students served by such agencies.

"(b) ELIGIBLE AGENCIES.—A local educational agency shall be eligible to receive a grant under this section if such agency—

"(1) receives assistance under section 1006 or meets the criteria of clauses (i) and (ii) of section 1006(a)(1)(A); and

"(2) serves an area—

"(A) in which there is a large number or a high percentage of—

"(i) arrests for, or while under the influence of, drugs or alcohol; or

"(ii) convictions of youths for drug or alcohol-related crimes;

"(B) in which there is a large number or high percentage of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs; and

"(C) that has a significant drug and alcohol abuse problem, as indicated by other appropriate data.

"(c) AMOUNT OF GRANTS.—Each grant awarded under this section shall be in an amount that is not less than $100,000 and not more than $1,000,000.

"(d) FISCAL YEAR 1990.—For fiscal year 1990, funds available for the purposes of this section shall be allocated to the chief executive officer of each State for distribution through State educational agencies to local educational agencies.".

SEC. 15. DRUG-FREE SCHOOL ZONES DEMONSTRATION PROGRAM.

20 USC 3217.

Part D of the Drug-Free Schools and Communities Act (20 U.S.C. 3211 et seq.) is amended by adding after section 5136 (as added by section 14) the following new section:

"SEC. 5137. DRUG-FREE SCHOOL ZONES DEMONSTRATION PROGRAM.

"(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM FOR DRUG-FREE SCHOOL ZONES.—The Secretary of Education is authorized to establish a demonstration program to establish and maintain drug-free school zones. In carrying out the demonstration program under this section, the Secretary shall make grants to local educational agencies, intermediate educational agencies, and consortia.

Grants.

"(b) EVALUATIONS.—The Secretary shall evaluate programs under this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the purposes of this section. Funds appropriated under this section are authorized to remain available until expended.".

SEC. 16. DEFINITIONS.

Section 5141 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3221) is amended—

(1) in paragraph (1), by inserting before the period the following: ", including anabolic steroids";

(2) in paragraph (2), by inserting before the period the following: ", including anabolic steroids"; and

(3) by adding at the end the following new paragraph:

"(10) The term 'school personnel' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.".

SEC. 17. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT ELEMENTARY AND SECONDARY SCHOOLS.

Subsection (c) of section 5143 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3233) is amended—

20 USC 3223.

(1) by striking "WAIVER;";

(2) by inserting after "SECRETARY" the following: "AND STATE EDUCATIONAL AGENCIES";

(3) by inserting "(1)" before "If by reason"; and

(4) by adding at the end the following new paragraph:

"(2) If a State educational agency determines that a local educational agency, intermediate educational agency, or consortium, as appropriate, is failing to provide for the equitable participation of children or teachers from private nonprofit elementary or secondary schools in accordance with subsection (a) or (b), the State educational agency shall waive the requirements of such subsection with respect to such local educational agency, intermediate educational agency, or consortium and make appropriate arrangements for the equitable participation of such children or teachers.".

SEC. 18. NATIONAL DIFFUSION NETWORK.

Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3221 et seq.) is amended by adding at the end the following new section:

20 USC 3224b.

"SEC. 5146. DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.

"(a) DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.—The Secretary, through the National Diffusion Network established under section 1562, shall disseminate information and technical assistance with respect to drug abuse education and prevention programs of demonstrated effectiveness.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $500,000 for fiscal year 1991.".

SEC. 19. DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS.

(a) AMENDMENT TO PART HEADING.—The heading for part F of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3227) is amended to read as follows:

"PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS".

(b) PROGRAM AUTHORIZED.—Subsection (a) of section 5151 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3227) is amended—

(1) by striking "and such other" and inserting "such other"; and

(2) by inserting before the period the following: ", and to parents of children participating in such programs".

SEC. 20. LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT.

Section 541(b) of the Higher Education Act of 1965 (20 U.S.C. 1109(b)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) developing skills and techniques for administering drug prevention and education programs.".

SEC. 21. EMERGENCY GRANTS FOR CHILD ABUSE PREVENTION SERVICES FOR CHILDREN WHOSE PARENTS ARE SUBSTANCE ABUSERS.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), as amended by the Child Abuse Prevention Challenge Grants Reauthorization Act of 1989 (Public Law 101-126), is amended by adding after section 107 the following new section:

"SEC. 107A. EMERGENCY CHILD ABUSE PREVENTION SERVICES GRANT.

42 USC 5106a-1.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to make grants to eligible entities to enable such entities to provide services to children whose parents are substance abusers.

"(b) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section shall be—

"(1) State and local agencies that are responsible for administering child abuse or related child abuse intervention services; and

"(2) community and mental health agencies and nonprofit youth-serving organizations with experience in providing child abuse prevention services.

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require.

"(2) ASSURANCE OF USE.—An application submitted under paragraph (1) shall—

"(A) contain an assurance that the applicant operates in a geographic area where child abuse has placed substantial strains on State and local agencies and has resulted in substantial increases in the need for services that cannot be met without funds available under this section;

"(B) identify the responsible agency or agencies that will be involved in the use of funds provided under this section;

"(C) contain a description of emergency situations with regard to children of substance abusers who need services of the type described in this section;

"(D) contain a plan for improving the delivery of such services to such children;

"(E) contain assurances that such services will be provided in a comprehensive multi-disciplinary and coordinated manner; and

"(F) contain any additional information as the Secretary may reasonably require.

"(d) USE OF FUNDS.—Funds received by an entity under this section shall be used to improve the delivery of services to children whose parents are substance abusers. Such services may include—

"(1) the hiring of additional personnel by the entity to reduce caseloads;

"(2) the provision of additional training for personnel to improve their ability to provide emergency child abuse prevention services related to substance abuse by the parents of such children;

"(3) the provision of expanded services to deal with family crises created by substance abuse; and

"(4) the establishment or improvement of coordination between the agency administering the grant, and—

"(A) child advocates;

"(B) public educational institutions;

"(C) community-based organizations that serve substance abusing parents, including pregnant and post-partum females and their infants; and

"(D) parents and representatives of parent groups and related agencies.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1990, and such sums as may be necessary for each of the subsequent fiscal years 1991, 1992, and 1993.".

SEC. 22. DRUG-FREE SCHOOLS AND CAMPUSES.

(a) IN GENERAL.—

(1) CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAM.—Title XII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by adding at the end a new section 1213 to read as follows:

"DRUG AND ALCOHOL ABUSE PREVENTION

20 USC 1145g.

"SEC. 1213. (a) Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

"(1) the annual distribution to each student and employee of—

"(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

"(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

"(C) a description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

"(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

"(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

"(2) a biennial review by the institution of its program to—

"(A) determine its effectiveness and implement changes to the program if they are needed; and

"(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

"(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

Public information.

"(c)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

Regulations.

"(A) the periodic review of a representative sample of programs required by subsection (a); and

"(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

"(2) The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.

"(d) Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.".

(2) EFFECTIVE DATE.—(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on October 1, 1990.

20 USC 1145g note.

(B) The Secretary of Education may allow any institution of higher education until not later than April 1, 1991, to comply with section 1213 of the Higher Education Act of 1965 (as added by paragraph (1)) if such institution demonstrates—

(i) that it is in the process of developing and implementing its plan under such section; and

(ii) it has a legitimate need for more time to develop and implement such plan.

(b) AMENDMENTS TO DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986.—

(1) IN GENERAL.—Part D of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.) is amended by adding after section 5144 the following new section:

"SEC. 5145. CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS.

20 USC 3224a.

"(a) IN GENERAL.—Notwithstanding any other provision of law other than section 432 of the General Education Provisions Act and section 103(b) of the Department of Education Organization Act, no local educational agency shall be eligible to receive funds or any other form of financial assistance under any Federal program unless it certifies to the State educational agency that it has adopted and has implemented a program to prevent the use of illicit drugs and alcohol by students or employees that, at a minimum, includes—

"(1) age-appropriate, developmentally based drug and alcohol education and prevention programs (which address the legal, social, and health consequences of drug and alcohol use and which provide information about effective techniques for resisting peer pressure to use illicit drugs or alcohol) for students in all grades of the schools operated or served by the applicant, from early childhood level through grade 12;

"(2) conveying to students that the use of illicit drugs and the unlawful possession and use of alcohol is wrong and harmful;

"(3) standards of conduct that are applicable to students and employees in all the applicant's schools and that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on school premises or as part of any of its activities;

"(4) a clear statement that sanctions (consistent with local, State, and Federal law), up to and including expulsion or termination of employment and referral for prosecution, will be imposed on students and employees who violate the standards of conduct required by paragraph (3) and a description of those sanctions;

"(5) information about any available drug and alcohol counseling and rehabilitation and re-entry programs that are available to students and employees;

"(6) a requirement that parents, students, and employees be given a copy of the standards of conduct required by paragraph (3) and the statement of sanctions required by paragraph (4);

"(7) notifying parents, students, and employees that compliance with the standards of conduct required by paragraph (3) is mandatory; and

"(8) a biennial review by the applicant of its program to—

"(A) determine its effectiveness and implement changes to the program if they are needed; and

"(B) ensure that the sanctions required by paragraph (4) are consistently enforced.

"(b) DISSEMINATION OF INFORMATION.—Each local educational agency that provides the certification required by subsection (a) shall, upon request, make available to the Secretary, the State educational agency, and to the public full information about the elements of its program required by subsection (a), including the results of its biennial review.

"(c) CERTIFICATION TO SECRETARY.—Each State educational agency shall certify to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by its students and employees that is consistent with the program required by subsection (a) of this section. The State educational agency shall, upon request, make available to the Secretary and to the public full information about the elements of its program.

Public information.

"(d) REGULATIONS.—(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

"(A) the periodic review by State educational agencies of a representative sample of programs required by subsection (a); and

"(B) a range of responses and sanctions for local educational agencies that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

"(2) The sanctions required by subsection (a)(1)(4) may include the completion of an appropriate rehabilitation program.

"(e) Upon a determination by the Secretary to terminate financial assistance to any local educational agency under this section, the agency may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such agency is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the agency concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.".

(2) CONFORMING AMENDMENTS.—Paragraph (2) of section 5126(e) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(c)) (as amended by section 9 of this Act) is amended—

(A) by striking subparagraphs (E), (F), and (G); and

(B) by redesignating subparagraphs (H) through (R) as subparagraphs (E) through (O), respectively.

(3) EFFECTIVE DATE.—(A) Except as provided in subparagraph (B), the amendments made by paragraphs (1) and (2) shall take effect on October 1, 1990. 20 USC 3224a note.

(B) The Secretary of Education may allow any local educational agency until not later than April 1, 1991, to comply with section 5145 of the Drug-Free Schools and Communities Act of 1986 (as added by paragraph (1)) if such agency demonstrates—

(i) that it is in the process of developing and implementing its plan under such section; and

(ii) it has a legitimate need for more time to develop and implement such plan.

SEC. 23. BEFORE AND AFTER SCHOOL PROGRAMS FOR UNSUPERVISED CHILDREN.

Section 3521(d) of the National Narcotics Leadership Act of 1988 is amended by— 42 USC 11841.

(1) redesignating paragraph (8) as paragraph (9);

(2) striking "and" at the end of paragraph (7); and

(3) inserting after paragraph (7) the following new paragraph:

"(8) programs for unsupervised children before and after school, including—

"(A) education and instruction consistent with the Drug-Free Schools and Communities Act of 1986;

"(B) athletic activities;

"(C) creative activities; and

"(D) other programs designed to reduce the risk of drug abuse; and".

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.R. 3614:

HOUSE REPORTS: No. 101-384 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 13, considered and passed House.
Nov. 15, considered and passed Senate, amended.
Nov. 21, House and Senate agreed to conference report.

○

Public Law 101-227
101st Congress

An Act

Extending the authority of the Secretary of Commerce to conduct the quarterly financial report program under section 91 of title 13, United States Code, through September 30, 1993.

Dec. 12, 1989
[H.R. 3629]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(b) of Public Law 97-454 (13 U.S.C. 91 note) is amended by striking "7 years after such effective date." and inserting "after September 30, 1993.".

5 USC 8343a note.

SEC. 2. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after December 2, 1989, and before October 1, 1990.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any lump-sum credit subject to this section is as follows:

(1) 50 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334(e)(3) of title 5, United States Code.

Regulations.

(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations to provide that, unless the individual involved indicates otherwise by written notice to the Office (submitted at such time and in such manner as the regulations may require), this section shall not apply—

(1) in the case of any individual who is separated from Government service involuntarily, other than for cause on charges of misconduct or delinquency; and

(2) in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) ANNUITY BENEFITS NOT AFFECTED.—Nothing in this section shall affect the commencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) DEFINITIONS.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

SEC. 3. AMENDMENTS RELATING TO LIMITATIONS ON POSTAL SERVICE'S BORROWING AUTHORITY.

(a) IN GENERAL.—Section 2005(a) of title 39, United States Code, is amended—

(1) by striking "(a)" and inserting "(a)(1)";

(2) by striking "$10,000,000,000." and inserting "the maximum amount then allowable under paragraph (2) of this subsection.";

(3) by striking "$1,500,000,000" and inserting "$2,000,000,000";

(4) by striking "$500,000,000" and inserting "$1,000,000,000"; and

(5) by adding at the end the following:

"(2) The maximum amount allowable under this paragraph is—

"(A) $10,000,000,000 for fiscal year 1990;

"(B) $12,500,000,000 for fiscal year 1991; and

"(C) $15,000,000,000 for fiscal year 1992 and each fiscal year thereafter.".

39 USC 2005 note.

(b) EFFECTIVE DATE.—(1) Subject to the provisions of paragraph (2), the amendments made by subsection (a) shall take effect on October 1, 1990.

(2) Notwithstanding any other provision of this section, the amendments made by subsection (a) shall not take effect, if no law to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990 is enacted before October 1, 1990.

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.R. 3629:

CONGRESSIONAL RECORD, Vol. 135 (1989):

Nov. 13, considered and passed House.

Nov. 21, considered and passed Senate, amended. House concurred in Senate amendment.

○

Public Law 101-228
101st Congress

Joint Resolution

Providing for the convening of the second session of the One Hundred First Congress.

Dec. 12, 1989
[H.J. Res. 449]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second regular session of the One Hundred First Congress shall begin at 12 o'clock meridian on Tuesday, January 23, 1990.

SEC. 2. Prior to the convening of the second regular session of the One Hundred First Congress on January 23, 1990, as provided in section 1 of this resolution, Congress shall reassemble at 12 o'clock meridian on the second day after its Members are notified in accordance with section 3 of this resolution.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

President of U.S.
Budget, Federal.

SEC. 4. Notwithstanding the provisions of section 1105 of title 31, United States Code, the President shall transmit to the Congress not later than January 22, 1990, the Budget for fiscal year 1991.

Approved December 12, 1989.

LEGISLATIVE HISTORY—H.J. Res. 449:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 21, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Dec. 12, Presidential statement.

O

PUBLIC LAW 101-229—DEC. 13, 1989

EVERGLADES NATIONAL PARK PROTECTION AND EXPANSION ACT OF 1989

Public Law 101-229
101st Congress

An Act

Dec. 13, 1989
[H.R. 1727]

To modify the boundaries of the Everglades National Park and to provide for the protection of lands, waters, and natural resources within the park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Everglades National Park Protection and Expansion Act of 1989.
Florida.
16 USC 410r-5 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Everglades National Park Protection and Expansion Act of 1989".

TITLE I—EVERGLADES NATIONAL PARK EXPANSION

16 USC 410r-5.

SEC. 101. FINDINGS, PURPOSES AND DEFINITION OF TERMS.

(a) Findings.—The Congress makes the following findings:

(1) The Everglades National Park is a nationally and internationally significant resource and the park has been adversely affected and continues to be adversely affected by external factors which have altered the ecosystem including the natural hydrologic conditions within the park.

(2) The existing boundary of Everglades National Park excludes the contiguous lands and waters of the Northeast Shark River Slough that are vital to long-term protection of the park and restoration of natural hydrologic conditions within the park.

(3) Wildlife resources and their associated habitats have been adversely impacted by the alteration of natural hydrologic conditions within the park, which has contributed to an overall decline in fishery resources and a 90 percent population loss of wading birds.

(4) Incorporation of the Northeast Shark River Slough and the East Everglades within the park will limit further losses suffered by the park due to habitat destruction outside the present park boundaries and will preserve valuable ecological resources for use and enjoyment by future generations.

(5) The State of Florida and certain of its political subdivisions or agencies have indicated a willingness to transfer approximately 35,000 acres of lands under their jurisdiction to the park in order to protect lands and water within the park, and may so transfer additional lands in the future.

(6) The State of Florida has proposed a joint Federal-State effort to protect Everglades National Park through the acquisition of additional lands.

(b) Purpose.—The purposes of this Act are to—

(1) increase the level of protection of the outstanding natural values of Everglades National Park and to enhance and restore

the ecological values, natural hydrologic conditions, and public enjoyment of such area by adding the area commonly known as the Northeast Shark River Slough and the East Everglades to Everglades National Park; and

(2) assure that the park is managed in order to maintain the natural abundance, diversity, and ecological integrity of native plants and animals, as well as the behavior of native animals, as a part of their ecosystem.

(c) DEFINITIONS.—As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "addition" means the approximately 107,600 acre area of the East Everglades area authorized to be added to Everglades National Park by this Act.

(3) The term "park" means the area encompassing the existing boundary of Everglades National Park and the addition area described in paragraph (2).

(4) The term "project" means the Central and Southern Florida Project.

SEC. 102. BOUNDARY MODIFICATION.

16 USC 410r-6.

(a) AREA INCLUDED.—The park boundary is hereby modified to include approximately 107,600 acres as generally depicted on the map entitled "Boundary Map, Everglades National Park Addition, Dade County, Florida", numbered 160-20,013B and dated September 1989. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

(b) BOUNDARY ADJUSTMENT.—The Secretary may from time to time make minor revisions in the boundaries of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following). In exercising the boundary adjustment authority the Secretary shall ensure all actions will enhance resource preservation and shall not result in a net loss of acreage from the park.

(c) ACQUISITION.—(1) Within the boundaries of the addition described in subsection (a), the Secretary may acquire lands and interests in land by donation, purchase with donated or appropriated funds, or exchange. For purposes of acquiring property by exchange, the Secretary may, notwithstanding any other provision of law, exchange the approximately one acre of Federal land known as "Gilberts' Marina" for non-Federal land of equal value located within the boundaries of the addition. Any lands or interests in land which are owned by the State of Florida or any political subdivision thereof, may be acquired only by donation.

(2) It is the express intent of Congress that acquisition within the boundaries of the addition shall be completed not later than 5 years after the date of enactment of this section. The authority provided by this section shall remain in effect until all acquisition is completed.

Termination date.

(d) ACQUISITION OF TRACTS PARTIALLY OUTSIDE BOUNDARIES.—When any tract of land is only partly within boundaries referred to in subsection (a), the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries, and any land so acquired and not utilized for exchange shall be reported to the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949 (63 Stat. 377).

(e) OFFERS TO SELL.—In exercising the authority to acquire property under this Act, the Secretary shall give prompt and careful consideration to any offer made by any person owning property within the boundaries of the addition to sell such property, if such owner notifies the Secretary that the continued ownership of such property is causing, or would result in undue hardship.

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) Subject to the provisions of paragraph (2), there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(2) With respect to land acquisition within the addition, not more than 80 percent of the cost of such acquisition may be provided by the Federal Government. Not less than 20 percent of such cost shall be provided by the State of Florida.

(g) ASSISTANCE.—Upon the request of the Governor of the State of Florida, the Secretary is authorized to provide technical assistance and personnel to assist in the acquisition of lands and waters within the Kissimmee River/Lake Okeechobee/Everglades Hydrologic Basin, including the Big Cypress Swamp, through the provision of Federal land acquisition personnel, practices, and procedures. The State of Florida shall reimburse the Secretary for such assistance in such amounts and at such time as agreed upon by the Secretary and the State. Notwithstanding any other provision of law, reimbursement received by the Secretary for such assistance shall be retained by the Secretary and shall be available without further appropriation for purposes of carrying out any authorized activity of the Secretary within the boundaries of the park.

16 USC 410r-7.

SEC. 103. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the areas within the addition in accordance with this Act and other provisions of law applicable to the Everglades National Park, and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4). In order to further preserve and protect Everglades National Park, the Secretary shall utilize such other statutory authority as may be available to him for the preservation of wildlife and natural resources as he deems necessary to carry out the purposes of this Act.

(b) PROTECTION OF ECOSYSTEM.—The Secretary shall manage the park in order to maintain the natural abundance, diversity, and ecological integrity of native plants and animals, as well as the behavior of native animals, as a part of their ecosystem.

Boating.

(c) PROTECTION OF FLORA AND FAUNA.—The park shall be closed to the operation of airboats—

(1) except as provided in subsection (d); and

(2) except that within a limited capacity and on designated routes within the addition, owners of record of registered airboats in use within the addition as of January 1, 1989, shall be issued nontransferable, nonrenewable permits, for their individual lifetimes, to operate personnally-owned airboats for noncommercial use in accordance with rules prescribed by the Secretary to determine ownership and registration, establish

uses, permit conditions, and penalties, and to protect the biological resources of the area.

(d) CONCESSION CONTRACTS.—The Secretary is authorized to negotiate and enter into concession contracts with the owners of commercial airboat and tour facilities in existence on or before January 1, 1989, located within the addition for the provision of such services at their current locations under such rules and conditions as he may deem necessary for the accommodation of visitors and protection of biological resources of the area.

Marjory Stoneman Douglas.

(e) VISITOR CENTER.—The Secretary is authorized and directed to expedite the construction of the visitor center facility at Everglades City, Florida, as described in the Development Concept Plan, Gulf Coast, dated February 1989, and upon construction shall designate the visitor center facility as "The Marjory Stoneman Douglas Center" in commemoration of the vision and leadership shown by Mrs. Douglas in the protection of the Everglades and Everglades National Park.

16 USC 410r-8.

SEC. 104. MODIFICATION OF CERTAIN WATER PROJECTS.

(a) IMPROVED WATER DELIVERIES.—(1) Upon completion of a final report by the Chief of the Army Corps of Engineers, the Secretary of the Army, in consultation with the Secretary, is authorized and directed to construct modifications to the Central and Southern Florida Project to improve water deliveries into the park and shall, to the extent practicable, take steps to restore the natural hydrological conditions within the park.

(2) Such modifications shall be based upon the findings of the Secretary's experimental program authorized in section 1302 of the 1984 Supplemental Appropriations Act (97 Stat. 1292) and generally as set forth in a General Design Memorandum to be prepared by the Jacksonville District entitled "Modified Water Deliveries to Everglades National Park". The Draft of such Memorandum and the Final Memorandum, as prepared by the Jacksonville District, shall be submitted as promptly as practicable to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation of the United States House of Representatives.

(3) Construction of project modifications authorized in this subsection and flood protection systems authorized in subsections (c) and (d) are justified by the environmental benefits to be derived by the Everglades ecosystem in general and by the park in particular and shall not require further economic justification.

(4) Nothing in this section shall be construed to limit the operation of project facilities to achieve their design objectives, as set forth in the Congressional authorization and any modifications thereof.

Agriculture and agricultural commodities.

(b) DETERMINATION OF ADVERSE EFFECT.—(1) Upon completion of the Final Memorandum referred to in subsection (a), the Secretary of the Army, in consultation with the South Florida Water Management District, shall make a determination as to whether the residential area within the East Everglades known as the "Eight and One-Half Square Mile Area" or adjacent agricultural areas, all as generally depicted on the map referred to in subsection 102(a), will be adversely affected by project modifications authorized in subsection (a).

(2) In determining whether adjacent agricultural areas will be adversely affected, the Secretary of the Army shall consider the impact of any flood protection system proposed to be implemented pursuant to subsection (c) on such agricultural areas.

(c) FLOOD PROTECTION; EIGHT AND ONE-HALF SQUARE MILE AREA.—If the Secretary of the Army makes a determination pursuant to subsection (b) that the "Eight and One-Half Square Mile Area" will be adversely affected, the Secretary of the Army is authorized and directed to construct a flood protection system for that portion of presently developed land within such area.

(d) FLOOD PROTECTION; ADJACENT AGRICULTURAL AREA.—(1) If the Secretary of the Army determines pursuant to subsection (b) that an adjacent agricultural area will be adversely affected, the Secretary of the Army is authorized and directed to construct a flood protection system for such area. Such determination shall be based on a finding by the Secretary of the Army that:

(A) the adverse effect will be attributable solely to a project modification authorized in subsection (a) or to a flood protection system implemented pursuant to subsection (c), or both; and

(B) such modification or flood protection system will result in a substantial reduction in the economic utility of such area based on its present agricultural use.

(2) No project modification authorized in subsection (a) which the Secretary of the Army determines will cause an adverse effect pursuant to subsection (b) shall be made operational until the Secretary of the Army has implemented measures to prevent such adverse effect on the adjacent agricultural area: *Provided*, That the Secretary of the Army or the South Florida Water Management District may operate the modification to the extent that the Secretary of the Army determines that such operation will not adversely affect the adjacent agricultural area: *Provided further*, That any preventive measure shall be implemented in a manner that presents the least prospect of harm to the natural resources of the park.

(3) Any flood protection system implemented by the Secretary of the Army pursuant to this subsection shall be required only to provide for flood protection for present agricultural uses within such adjacent agricultural area.

(4) The acquisition of land authorized in section 102 shall not be considered a project modification.

Agriculture and agricultural commodities.

(e) PERIODIC REVIEW.—(1) Not later than 18 months after the completion of the project modifications authorized in subsection (a), and periodically thereafter, the Secretary of the Army shall review the determination of adverse effect for adjacent agricultural areas.

(2) In conducting such review, the Secretary of the Army shall consult with all affected parties, including, but not limited to, the Secretary, the South Florida Water Management District and agricultural users within adjacent agricultural areas.

(3) If, on the basis of such review, the Secretary of the Army determines that an adjacent agricultural area has been, or will be adversely affected, the Secretary of the Army is authorized and directed, in accordance with the provisions of subsection (d), to construct a flood protection system for such area: *Provided*, That the provisions of subsection (d)(2) shall be applicable only to the extent that the Secretary, in consultation with the Secretary of the Army, determines that the park will not be adversely affected.

(4) The provisions of this subsection shall only be applicable if the Secretary of the Army has previously made a determination that such adjacent agricultural area will not be adversely affected.

(f) CURRENT CANAL OPERATING LEVELS.—Nothing in this section shall be construed to require or prohibit the Secretary of the Army or the South Florida Water Management District from maintaining the water level within any project canal below the maximum authorized operating level as of the date of enactment of this Act.

(g) NO LIMITATION ON OTHER CLAIMS.—If the Secretary of the Army makes a determination of no adverse effect pursuant to subsection (b), such determination shall not be considered as a limitation or prohibition against any available legal remedy which may otherwise be available.

(h) COORDINATION.—The Secretary and the Secretary of the Army shall coordinate the construction program authorized under this section and the land acquisition program authorized in section 102 in such a manner as will permit both to proceed concurrently and as will avoid unreasonable interference with property interests prior to the acquisition of such interests by the Secretary under section 102.

(i) WEST DADE WELLFIELD.—No Federal license, permit, approval, right-of-way or assistance shall be granted or issued with respect to the West Dade Wellfield (to be located in the Bird Drive Drainage Basin, as identified in the Comprehensive Development Master Plan for Dade County, Florida) until the Secretary, the Governor of the State of Florida, the South Florida Water Management District and Dade County, Florida enter into an agreement providing that the South Florida Water Management District's water use permit for the wellfield, if granted, must include the following limiting conditions: (1) the wellfield's peak pumpage rate shall not exceed 140,000,000 gallons per day; (2) the permit shall include reasonable, enforceable measures to limit demand on the wellfield in times of water shortage; and (3) if, during times of water shortage, the District fails to limit demand on the wellfield pursuant to (2), or if the District limits demand on the wellfield pursuant to (2), but the Secretary certifies that operation of the wellfield is still causing significant adverse impacts on the resources of the Park, the Governor shall require the South Florida Water Management District to take necessary actions to alleviate the adverse impact, including, but not limited to, temporary reductions in the pumpage from the wellfield.

(j) PROTECTION OF NATURAL VALUES.—The Secretary of the Army is directed in analysis, design and engineering associated with the development of a general design memorandum for works and operations in the "C-111 basin" area of the East Everglades, to take all measures which are feasible and consistent with the purposes of the project to protect natural values associated with Everglades National Park. Upon completion of a general design memorandum for the area, the Secretary shall prepare and transmit a report to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation of the United States House of Representatives on the status of the natural resources of the C-111 basin and functionally related lands. Reports.

TITLE II—FORT JEFFERSON NATIONAL MONUMENT REDESIGNATION STUDY

SEC. 201. FORT JEFFERSON NATIONAL MONUMENT REDESIGNATION STUDY.

The Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, not later than 2 years after the date of enactment of this Act, a feasibility and suitability study of expanding and redesignating Fort Jefferson National Monument in the Dry Tortugas as Fort Jefferson National Park. The study shall include cost estimates for any necessary acquisition, development, operation, and maintenance, as well as alternatives, including a joint Federal and State management scheme, to further protect the waters, reef tracts, fisheries, and shallow banks in and around the Florida Keys and Fort Jefferson National Monument.

Approved December 13, 1989.

LEGISLATIVE HISTORY—H.R. 1727 (S. 724):

HOUSE REPORTS: No. 101-182, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Public Works and Transportation).

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 7, considered and passed House.
Nov. 21, considered and passed Senate, amended, in lieu of S. 724. House concurred in Seante amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Dec. 13, Presidential statement.

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Public Law 101-230
101st Congress

An Act

To designate lock and dam numbered 4 on the Arkansas River, Arkansas, as the "Emmett Sanders Lock and Dam".

Dec. 13, 1989
[H.R. 2178]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

Lock and dam numbered 4 on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall hereafter be known and designated as the "Emmett Sanders Lock and Dam".

SEC. 2. LEGAL REFERENCE.

A reference in any law, regulation, document, or record of the United States to the lock and dam referred to in section 1 shall hereafter be deemed to be a reference to the "Emmett Sanders Lock and Dam".

Approved December 13, 1989.

LEGISLATIVE HISTORY—H.R. 2178:

CONGRESSIONAL RECORD, Vol. 135 (1989):
May 11, considered and passed House.
Nov. 21, considered and passed Senate.

○

39-139 O - 89 (230)

PUBLIC LAW 101-231—DEC. 13, 1989

INTERNATIONAL NARCOTICS CONTROL ACT OF 1989

39-139 O - 89 (231)

Public Law 101-231
101st Congress

An Act

Dec. 13, 1989

[H.R. 3611]

To combat international narcotics production and trafficking.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Narcotics Control Act of 1989.
Law enforcement and crime.
22 USC 2151 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "International Narcotics Control Act of 1989".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Andean drug initiative.
Sec. 3. Military and law enforcement assistance for Bolivia, Colombia, and Peru.
Sec. 4. Acquisition by Special Defense Acquisition Fund of defense articles for narcotics control purposes.
Sec. 5. Excess defense articles for certain major illicit drug producing countries.
Sec. 6. Waiver of Brooke-Alexander amendment for major coca producing countries.
Sec. 7. Mexico.
Sec. 8. Nonapplicability of certification procedures to certain major drug-transit countries.
Sec. 9. Coordination of United States trade policy and narcotics control objectives.
Sec. 10. Debt-for-drugs exchanges.
Sec. 11. Multilateral antinarcotics strike force.
Sec. 12. Weapons transfers to international narcotics traffickers.
Sec. 13. Rewards for information concerning acts of international terrorism.
Sec. 14. Waiver of Bumpers Amendment.
Sec. 15. Participation in foreign police actions.
Sec. 16. Authorization of appropriations for international narcotics control assistance.
Sec. 17. Revisions of certain narcotics-related provisions of the Foreign Assistance Act.

SEC. 2. ANDEAN DRUG INITIATIVE.

(a) Findings Relating to Economic Assistance Needs.—The Congress finds that—

(1) it is crucial to international antidrug efforts that funds be made available for crop substitution programs and alternative employment opportunities to provide alternative sources of income for those individuals in major coca producing countries who are dependent on illicit drug production activities, as well as for eradication, enforcement, rehabilitation and treatment, and education programs in those countries; and

(2) the United States and other major donor countries (including European countries and Japan) should provide increased economic assistance, on an urgent basis, to those major coca producing countries which have taken concrete steps to attack illicit coca production, processing, and trafficking, by eradication, interdiction, or other methods which significantly reduce the flow of cocaine to the world market.

(b) Plan to Address Need for Assistance.—The Congress, therefore, urges the Director of National Drug Control Policy to submit to the Congress in February 1990, as part of the National Drug Control

Strategy report required by section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504), a plan which addresses the need outlined in subsection (a).

Bolivia.
Colombia.
Peru.

(c) ANDEAN SUMMIT.—The Congress urges the President in the strongest possible terms to include the following issues on the formal agenda of the meeting between the President and the heads of government of Bolivia, Colombia, and Peru, scheduled for early February 1990:

(1) Bilateral and multilateral antidrug efforts that make funds available for crop substitution programs and alternative employment opportunities in major coca producing countries, as well as for eradication, enforcement, rehabilitation and treatment, and education programs in those countries.

(2) Initiatives to improve and expand antidrug efforts in the Andean region, including through the use of United States international economic, commercial, and other policies.

(3) Prior bilateral discussions aimed at increasing multilateral economic development assistance from Japan, Canada, and Western European countries for antidrug efforts in the Andean region.

(4) Debt-for-drugs exchanges that forgive Andean bilateral debt held by the United States and other creditor countries in return for commitments by Andean governments to use the savings in debt service for antidrug programs, pursuant to agreements negotiated under section 481(h)(2)(B) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(2)(B)) and other international agreements and initiatives.

(5) Bilateral and multilateral efforts to halt the transfer of arms, precursor chemicals, and sophisticated communications equipment and technology from legitimate sources to drug trafficking organizations.

President of U.S.

(d) REPORT ON ANDEAN SUMMIT MEETING.—Not later than 30 days after the conclusion of the Andean summit meeting described in subsection (c), the President shall report to the Congress on the outcome of that meeting.

President of U.S.

(e) SUPPLEMENTAL BUDGET REQUESTS.—At the same time as he submits the report required by subsection (d), the President shall submit to the Congress such supplemental budget requests for fiscal years 1990 and 1991 as may be necessary to cover the United States share of the cost of additional economic assistance to implement an Andean antidrug strategy, including the commitments made at the Andean summit meeting described in subsection (c).

22 USC 229 note.

SEC. 3. MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.

(a) PURPOSES OF ASSISTANCE.—Assistance provided under this section shall be designed to—

(1) enhance the ability of the Government of Bolivia, the Government of Colombia, and the Government of Peru to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with those governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

President of U.S.

(b) Military Assistance and Training.—Subject to the requirements of this section, the President is authorized to use the funds made available to carry out this section to provide defense articles, defense services, and international military education and training to Bolivia, Colombia, and Peru. Such assistance shall be provided under the authorities of section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) and chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following; relating to international military education and training). Such assistance is in addition to any other such assistance made available to those countries.

(c) Law Enforcement Training.—

(1) Authorized forms and recipients of assistance.—Subject to paragraph (2), up to $6,500,000 of the funds made available to carry out this section may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance)—

(A) to provide to law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement by the Government of Bolivia, the Government of Colombia, or the Government of Peru, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(B) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(2) Offsetting reduction.—The amount that may be used under paragraph (1) shall be reduced by the amount of any assistance provided for Bolivia, Colombia, or Peru under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, for the purposes specified in subparagraph (A) or (B) of paragraph (1).

(d) Equipment for Law Enforcement Units.—

(1) Authorized forms and recipients of assistance.—Subject to paragraph (2), up to $12,500,000 of the funds made available to carry out this section may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance), for the procurement of defense articles for use in narcotics control, eradication, and interdiction efforts by law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(2) Offsetting reduction.—The amount that may be used under paragraph (1) shall be reduced by the amount of any assistance provided for Bolivia, Colombia, or Peru under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, for the procurement of weapons or ammunition in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961.

(e) Conditions of Eligibility.—Assistance may be provided under this section to Bolivia, Colombia, or Peru only—

(1) so long as that country has a democratic government; and

(2) the law enforcement agencies of that country do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1)).

President of U.S.

(f) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to this section, the President shall transmit to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(g) REPORTS ON HUMAN RIGHTS SITUATION.—Section 502B(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(c); relating to country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(h) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $125,000,000 for fiscal year 1990 to carry out this section, which amount is authorized to be made available until expended.

SEC. 4. ACQUISITION BY SPECIAL DEFENSE ACQUISITION FUND OF DEFENSE ARTICLES FOR NARCOTICS CONTROL PURPOSES.

Section 51(a) of the Arms Export Control Act (22 U.S.C. 2795(a)) is amended by adding at the end the following:

"(4)(A) The Fund shall also be used to acquire defense articles that are particularly suited for use for narcotics control purposes and are appropriate to the needs of recipient countries, such as small boats, planes (including helicopters), and communications equipment.

"(B) Each report pursuant to section 53(a) shall designate the defense articles that have been acquired or are to be acquired pursuant to this paragraph and the defense articles acquired under this chapter that were transferred for use in narcotics control purposes.".

SEC. 5. EXCESS DEFENSE ARTICLES FOR CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

Chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following) is amended by adding at the end the following:

22 USC 2321k.

"SEC. 517. MODERNIZATION OF MILITARY CAPABILITIES OF CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Subject to the limitations in this section, the President may transfer to a country—

"(1) which is a major illicit drug producing country (as defined in section 481(i)(2)) in Latin America and the Caribbean,

"(2) which has a democratic government, and

"(3) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1)),

such excess defense articles as may be necessary to carry out subsection (b).

"(b) PURPOSE.—Excess defense articles may be transferred under subsection (a) only for the purpose of encouraging the military forces of an eligible country in Latin America and the Caribbean to participate with local law enforcement agencies in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances (as defined in section 481(i)(3)).

"(c) USES OF EXCESS DEFENSE ARTICLES.—Excess defense articles may be furnished to a country under subsection (a) only if that country ensures that those excess defense articles will be used only in support of antinarcotics activities.

"(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a). In accordance with section 4601 of the International Narcotics Control Act of 1988, the Secretary shall ensure that the transfer of excess defense articles under subsection (a) is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

"(e) DOLLAR LIMITATION.—The aggregate value of excess defense articles transferred to a country under subsection (a) in any fiscal year may not exceed $10,000,000.

"(f) CONDITIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) they are drawn from existing stocks of the Department of Defense;

"(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(g) TERMS OF TRANSFERS.—Excess defense articles may be transferred under this section without cost to the recipient country.

"(h) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) does not apply with respect to transfers of excess defense articles under this section.

"(i) NOTIFICATION TO CONGRESS.—

"(1) ADVANCE NOTICE.—The President may not transfer excess defense articles under this section until 30 days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

"(A) a certification of the need for the transfer;

"(B) an assessment of the impact of the transfer on the military readiness of the United States; and

"(C) a statement of the value of the excess defense articles to be transferred.

"(2) COMMITTEES TO BE NOTIFIED.—Notice shall be provided pursuant to paragraph (1) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.".

SEC. 6. WAIVER OF BROOKE-ALEXANDER AMENDMENT FOR MAJOR COCA PRODUCING COUNTRIES.

During fiscal year 1990, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriation Act, 1990, do not apply with respect to narcotics-related assistance for a country which is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961) because of its coca production.

SEC. 7. MEXICO.

(a) LIMITATION ON NARCOTICS CONTROL ASSISTANCE.—

(1) LIMITATION.—Except as provided in paragraph (2), not more than $15,000,000 of the amounts made available for fiscal year 1990 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance) may be made available for Mexico.

(2) PROCEDURE FOR ADDITIONAL ASSISTANCE.—Assistance in excess of the amount specified in paragraph (1) may be made available for Mexico only if the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) are notified at least 15 days in advance in accordance with the procedures applicable to reprogrammings under that section.

(b) SENATE POLICY TOWARD THE CONTROL OF ILLEGAL DRUGS IN MEXICO.—

(1) FINDINGS.—The Senate finds that—

(A) the Foreign Assistance Act of 1961 requires, except in cases of vital national interest, that all countries determined to be a major illicit drug producing country or a major drug-transit country must be "cooperating fully" with United States antinarcotics activities in order to continue receiving various forms of United States foreign assistance;

Enrique Camarena. Victor Cortez.

(B) relations between the United States and Mexico have suffered since the 1985 kidnapping and murder of Drug Enforcement Administration agent Enrique Camarena and the 1986 torture of DEA agent Victor Cortez;

(C) testimony before the Senate dating to 1986 has indicated that high-ranking Mexican government, military, and law enforcement officials have been involved in illegal narcotics operations, including narcotics trafficking operations into the United States;

(D) Mexico has been determined to be the primary producer of marijuana and heroin entering the United States and the transit point for up to 50 percent of the cocaine being smuggled into this country;

(E) there have been three drug-related mass murders involving more than 30 victims along the southwest border in recent months involving Mexican drug trafficking organizations;

(F) the United States continues to seek, with Mexican cooperation, hot pursuit and overflight authority for United States law enforcement agencies, access to bank records, verification of eradication figures, information on those who have been tried, charged, sentenced, and served time for narcotics-related crimes, and extradition of criminal figures;

(G) there was sworn in a new president and Government of Mexico on December 1, 1988, creating a new era of opportunity for increased cooperation and mutual friendship;

Carlos Salinas de Gortari.

(H) the new President of Mexico, Carlos Salinas de Gortari, has indicated a strong willingness to expand and improve Mexico's antinarcotics activities;

Miguel Nazar Haro.

(I) the Chief of the Mexico City Police Investigative Service, Miguel Nazar Haro, who is under indictment in the United States, has been fired;

Miguel Angel Felix-Gallardo.

(J) the Government of Mexico has arrested Miguel Angel Felix-Gallardo, one of the most notorious drug trafficking figures in Mexico;

(K) Mexican officials have for the first time conceded that corrupt Mexican officials, including law enforcement, government, and military officials, have previously protected Mr. Gallardo; and

Carlos Robles. Joaquin Hernandez Galicia.

(L) criminal charges of electoral fraud against the mayor of Hermosillo, Carlos Robles, and homicide and arms charges against the head of Mexico's Oil Workers Union, Joaquin Hernandez Galicia, have been filed.

(2) SENATE POLICY.—It is the sense of the Senate that—

(A) President Salinas should be supported in his expressed willingness to end the narcotics-related corruption that has permeated the Government of Mexico in the past;

(B) Mexico should conclude the prosecution of the murders of Drug Enforcement Administration agent Camarena, the perpetrators of torture against DEA agent Cortez, and make progress in the prosecution of Felix-Gallardo;

(C) Mexico should demonstrate its commitment to cooperating fully in antinarcotics activities by entering into negotiations with the United States on—

(i) joint overflight and hot pursuit operations, involving Mexican law enforcement officials traveling on United States interdiction aircraft with Mexican officers having responsibility for actual arrests of suspects;

(ii) participation of United States law enforcement agencies in air surveillance flights for interdiction efforts and joint United States-Mexico border enforcement and interdiction operations;

(iii) United States requests for access to bank records to assist in carrying out narcotics-related investigations; and

(iv) United States requests for verification of eradication statistics, including ground verification; and

(D) the people of Mexico should be supported in their efforts to rid their country of illicit narcotics, bribery and corruption, and electoral fraud.

SEC. 8. NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1990 if the President certifies to the Congress, during that fiscal year, that—

(1) subparagraph (C) of section 481(i)(5) of that Act, relating to money laundering, does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 481(h)(2)(B) of that Act) or a multilateral agreement which achieves the objectives of that section;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts.

SEC. 9. COORDINATION OF UNITED STATES TRADE POLICY AND NARCOTICS CONTROL OBJECTIVES.

(a) Need for Coordination.—It is the sense of the Congress that United States trade policy should be coordinated with United States narcotics control objectives, particularly with respect to issues such as the International Coffee Agreement.

(b) Presidential Review.—The Congress commends the President for reviewing whether the International Coffee Agreement negotiations should be resumed and whether the trade benefits provided in the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 and following) should be extended to the major coca producing countries of Latin America.

SEC. 10. DEBT-FOR-DRUGS EXCHANGES.

22 USC 2291 note.
Bolivia.
Colombia.
Peru.

(a) Authority.—The President may release Bolivia, Colombia, or Peru from its obligation to make payments to the United States Government of principal and interest on account of a loan made to that country under the Foreign Assistance Act of 1961 (22 U.S.C.

2151 and following; relating to foreign assistance programs) or credits extended for that country under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military sales credits) if the President determines that that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a formal bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs.

President of U.S.
Bolivia.
Colombia.
Peru.

(b) CONGRESSIONAL REVIEW OF AGREEMENTS.—The President shall submit any such agreement with Bolivia, Colombia, or Peru to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate at least 15 days before exercising the authority of section (a) with respect to that country.

(b) COORDINATION WITH MULTILATERAL DEBT RELIEF ACTIVITIES.—The authority provided in subsection (a) shall be exercised in coordination with multilateral debt relief activities.

(c) EFFECTIVE DATE.—Subsection (a) takes effect on October 1, 1990.

SEC. 11. MULTILATERAL ANTINARCOTICS STRIKE FORCE.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has, in the past, indicated its support for a multilateral, regional approach to narcotics control efforts;

(2) a proposal to create a multilateral, international antinarcotics force for the Western Hemisphere, is a plan worthy of praise and strong United States support;

(3) the development of a greater capability to assist the governments of Latin America and the Caribbean, including the Caribbean Basin nations, is an essential component of efforts to interdict the flow of narcotics to the United States; and

(4) regional leadership in the promotion of a multilateral, paramilitary force to combat the drug cartels is welcomed and encouraged.

(b) SENSE OF CONGRESS.—It is therefore the sense of the Congress that—

(1) the proposal for the promotion of a regional multilateral antinarcotics force for the Western Hemisphere should be endorsed; and

(2) the United States should work through the United Nations, the Organization of American States, and other multilateral organizations to determine the feasibility of such a force and should assist in the establishment of this force if it is found to be feasible.

SEC. 12. WEAPONS TRANSFERS TO INTERNATIONAL NARCOTICS TRAFFICKERS.

(a) HALTING WEAPONS TRANSFERS TO NARCOTICS TRAFFICKERS.—The Congress urges the President to seek agreement by the relevant foreign countries, especially the member countries of the North Atlantic Treaty Organization and the member countries of the Warsaw Pact, to join with the United States in taking the necessary steps to halt transfers of weapons to narcotics traffickers in Latin America.

(b) Coordination of United States Efforts to Track Illegal Arms Transfers.—The Congress urges the President to improve the coordination of United States Government efforts—

(1) to track the flow of weapons illegally from the United States and other countries to international narcotics traffickers, and

(2) to prevent such illegal shipments from the United States.

(c) INTERPOL.—The Congress calls upon the President to direct the United States representative to INTERPOL to urge that organization to study the feasibility of creating an international database on the flow of those types of weapons that are being acquired illegally by international narcotics traffickers.

President of U.S.

(d) Report to Congress.—Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the steps taken in accordance with this section.

SEC. 13. REWARDS FOR INFORMATION CONCERNING ACTS OF INTERNATIONAL TERRORISM.

(a) Amendment.—Subject to subsection (b), section 36(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(c)) is amended by striking out "$500,000" and inserting in lieu thereof "$2,000,000".

22 USC 2708 note.

(b) Avoiding Duplicative Amendments.—If the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is enacted before this Act, and that Act makes the same amendment as is described in subsection (a), then subsection (a) shall not take effect. If, however, this Act is enacted before the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, and that Act would make the same amendment as is made by subsection (a), then that amendment as proposed to be made by that Act shall not take effect.

SEC. 14. WAIVER OF BUMPERS AMENDMENT.

(a) Assistance for Crop Substitution Activities.—During fiscal year 1990, the provisions described in subsection (b) do not apply with respect to assistance for crop substitution activities undertaken in furtherance of narcotics control objectives.

Agriculture and agricultural commodities.

(b) Bumpers Amendment.—The provisions made inapplicable by subsection (a) are any provisions of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that prohibit the use of funds made available to carry out part I of the Foreign Assistance Act of 1961 for activities in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States.

SEC. 15. PARTICIPATION IN FOREIGN POLICE ACTIONS.

Government organization and employees.

Section 481(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c)) is amended to read as follows:

"(c) Participation in Foreign Police Actions.—

"(1) Prohibition on effecting an arrest.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

"(2) Participation in arrest actions.—Paragraph (1) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

"(3) EXCEPTION FOR EXIGENT, THREATENING CIRCUMSTANCES.—Paragraph (1) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

"(4) EXCEPTION FOR MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, paragraph (1) does not apply with respect to maritime law enforcement operations in the territorial sea of that country.

"(5) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

"(6) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This subsection does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.".

SEC. 16. AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

22 USC 2291a.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2292(a)(1)) is amended by striking out "$101,000,000 for fiscal year 1989" and inserting in lieu thereof "$115,000,000 for fiscal year 1990".

SEC. 17. REVISIONS OF CERTAIN NARCOTICS-RELATED PROVISIONS OF THE FOREIGN ASSISTANCE ACT.

(a) PLANS BY SIGNATORIES TO 1961 SINGLE CONVENTION.—Section 481(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(a)(1)) is amended by striking out the last sentence.

(b) QUARTERLY AND MID-YEAR REPORTS.—Section 481(b) of that Act (22 U.S.C. 2291(b)) is amended by striking out "(1)" and all that follows through "August" in paragraph (2) and inserting in lieu thereof "MID-YEAR REPORT.—Not later than September".

Environmental protection.

(c) USE OF HERBICIDES FOR AERIAL ERADICATION.—Section 481(d) of that Act (22 U.S.C. 2291(d)) is amended to read as follows:

"(d) USE OF HERBICIDES FOR AERIAL ERADICATION.—

President of U.S.

"(1) MONITORING.—The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

"(2) NOTICE TO HHS AND EPA.—The Secretary of State shall inform the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency of the use or intended use by any country or international organization of any herbicide for aerial eradication in a program receiving assistance under this chapter.

President of U.S.

"(3) ANNUAL REPORTS.—In the annual report required by subsection (e), the President shall report on the impact on the environment and the health of individuals of the use under this chapter of a herbicide for aerial eradication.

President of U.S.

"(4) REPORT UPON DETERMINATION OF HARM TO ENVIRONMENT OR HEALTH.—If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.".

(d) DEFINITION OF COOPERATION.—Section 481(h) of that Act (22 U.S.C. 2291(h)) is amended—

(1) in paragraph (2)(A)(i)(IV), by inserting "illicit" before "production";

(2) in paragraph (2)(B)(iii), by striking out "treatment" and inserting in lieu thereof "education and treatment programs";

(3) in paragraph (2)(B)(v), by inserting "essential" before "precursor"; and

(4) in paragraph (3)(D), by inserting "illicit" before "production".

(e) DEFINITION OF MAJOR ILLICIT DRUG PRODUCING COUNTRY.—Section 481(i)(2) of that Act (22 U.S.C. 2291(i)(2)) is amended to read as follows:

"(2) the term 'major illicit drug producing country' means a country that illicitly produces during a fiscal year 5 metric tons or more of opium or opium derivative, 500 metric tons or more of coca, or 500 metric tons or more of marijuana;".

(f) DETERMINING MAJOR ILLICIT DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.—Section 481(k) of that Act (22 U.S.C. 2291(k)) is amended by striking out paragraph (4).

(g) CONTRIBUTION BY RECIPIENT COUNTRY.—Section 482(d) of that Act (22 U.S.C. 2292(d)) is amended to read as follows:

22 USC 2291a.

"(d) CONTRIBUTION BY RECIPIENT COUNTRY.—To ensure local commitment to the activities assisted under this chapter, a country receiving assistance under this chapter should bear an appropriate share of the costs of any narcotics control program, project, or activity for which such assistance is to be provided. A country may bear such costs on an 'in kind' basis.".

(h) CONFORMING AMENDMENTS TO NARCOTICS CONTROL TRADE ACT.—The Narcotics Control Trade Act (19 U.S.C. 2492 and following) is amended—

(1) in section 802(b)(1)(A)(i)(IV), by inserting "illicit" before "production";

(2) in section 802(b)(1)(B)(iii), by striking out "treatment" and inserting in lieu thereof "education and treatment programs";

(3) in section 802(b)(1)(B)(v), by inserting "essential" before "precursor";

19 USC 2492.

(4) in section 802(b)(2)(D), by inserting "illicit" before "production";

and

19 USC 2495.

(5) in section 805, by amending paragraph (2) to read as follows:

"(2) the term 'major drug producing country' means a country that illicitly produces during a fiscal year 5 metric tons or more of opium or opium derivative, 500 metric tons or more of coca, or 500 metric tons or more of marijuana; and".

Approved December 13, 1989.

LEGISLATIVE HISTORY—H.R. 3611 (S. 1735):

HOUSE REPORTS: No. 101-342, Pt. 1 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Oct. 5, S. 1735 considered and passed Senate.
  Nov. 13, H.R. 3611 considered and passed House.
  Nov. 15, considered and passed Senate, amended, in lieu of S. 1735.
  Nov. 21, Senate and House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  Dec. 13, Presidential statement.

○

Public Law 101-232
101st Congress

An Act

To authorize the expansion of the membership of the Superior Court of the District of Columbia from 50 associate judges to 58 associate judges.

Dec. 13, 1989
[H.R. 3670]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZING EXPANSION OF MEMBERSHIP OF SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.

Section 11-903, D.C. Code (as amended by section 138 of the District of Columbia Appropriations Act, 1990) is amended by striking "Subject to the enactment of authorizing legislation, the" and inserting "The".

Approved December 13, 1989.

LEGISLATIVE HISTORY—H.R. 3670:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 17, considered and passed House.
Nov. 20, considered and passed Senate.

○

PUBLIC LAW 101-233—DEC. 13, 1989

NORTH AMERICAN WETLANDS CONSERVATION ACT

Public Law 101-233
101st Congress

An Act

Dec. 13, 1989
[S. 804]

To conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

North American Wetlands Conservation Act.
Environmental protection.
Public lands.
Canada.
Mexico.
16 USC 4401 note.
16 USC 4401.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "North American Wetlands Conservation Act".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the maintenance of healthy populations of migratory birds in North America is dependent on the protection, restoration, and management of wetland ecosystems and other habitats in Canada, as well as in the United States and Mexico;

(2) wetland ecosystems provide essential and significant habitat for fish, shellfish, and other wildlife of commercial, recreational, scientific, and aesthetic values;

(3) almost 35 per centum of all rare, threatened, and endangered species of animals are dependent on wetland ecosystems;

(4) wetland ecosystems provide substantial flood and storm control values and can obviate the need for expensive manmade control measures;

(5) wetland ecosystems make a significant contribution to water availability and quality, recharging ground water, filtering surface runoff, and providing waste treatment;

(6) wetland ecosystems provide aquatic areas important for recreational and aesthetic purposes;

(7) more than 50 per centum of the original wetlands in the United States alone have been lost;

(8) wetlands destruction, loss of nesting cover, and degradation of migration and wintering habitat have contributed to long-term downward trends in populations of migratory bird species such as pintails, American bitterns, and black ducks;

(9) the migratory bird treaty obligations of the United States with Canada, Mexico, and other countries require protection of wetlands that are used by migratory birds for breeding, wintering, or migration and are needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(10) the 1988 amendments to the Fish and Wildlife Conservation Act of 1980 require the Secretary of the Interior to identify conservation measures to assure that nongame migratory bird species do not reach the point at which measures of the Endangered Species Act are necessary;

(11) protection of migratory birds and their habitats requires long-term planning and the close cooperation and coordination of management activities by Canada, Mexico, and the United States within the framework of the 1916 and 1936 Migratory

Bird Conventions and the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(12) the North American Waterfowl Management Plan, signed in 1986 by the Minister of Environment for Canada and the Secretary of the Interior for the United States, provides a framework for maintaining and restoring an adequate habitat base to ensure perpetuation of populations of North American waterfowl and other migratory bird species;

(13) a tripartite agreement signed in March 1988, by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service, and the Director of the United States Fish and Wildlife Service, provides for expanded cooperative efforts in Mexico to conserve wetlands for migratory birds that spend the winter there;

(14) the long-term conservation of migratory birds and habitat for these species will require the coordinated action of governments, private organizations, landowners, and other citizens; and

(15) the treaty obligations of the United States under the Convention on Wetlands of International Importance especially as waterfowl habitat requires promotion of conservation and wise use of wetlands.

(b) Purpose.—The purposes of this Act are to encourage partnership among public agencies and other interests—

(1) to protect, enhance, restore, and manage an appropriate distribution and diversity of wetland ecosystems and other habitats for migratory birds and other fish and wildlife in North America;

(2) to maintain current or improved distributions of migratory bird populations; and

(3) to sustain an abundance of waterfowl and other migratory birds consistent with the goals of the North American Waterfowl Management Plan and the international obligations contained in the migratory bird treaties and conventions and other agreements with Canada, Mexico, and other countries.

SEC. 3. DEFINITIONS.

16 USC 4402.

For the purposes of this Act:

(1) The term "Agreement" means the Tripartite Agreement signed in March 1988, by the Director General for Ecological Conservation of Natural Resources of Mexico, the Director of the Canadian Wildlife Service, and the Director of the United States Fish and Wildlife Service.

(2) The term "appropriate Committees" means the Committee on Environment and Public Works of the United States Senate and the Committee on Merchant Marine and Fisheries of the United States House of Representatives.

(3) The term "flyway" means the four administrative units used by the United States Fish and Wildlife Service and the States in the management of waterfowl populations.

(4) The term "Migratory Bird Conservation Commission" means that commission established by section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a).

(5) The term "migratory birds" means all wild birds native to North America that are in an unconfined state and that are protected under the Migratory Bird Treaty Act, including

ducks, geese, and swans of the family Anatidae, species listed as threatened or endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.), and species defined as nongame under the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901-2912).

(6) The term "Plan" means the North American Waterfowl Management Plan signed by the Minister of the Environment for Canada and the Secretary of the Interior for the United States in May 1986.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "State" means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(9) The term "wetlands conservation project" means—

(A) the obtaining of a real property interest in lands or waters, including water rights, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon;

(B) the restoration, management, or enhancement of wetland ecosystems and other habitat for migratory birds and other fish and wildlife species if such restoration, management, or enhancement is conducted on lands and waters that are administered for the long-term conservation of such lands and waters and the migratory birds and other fish and wildlife dependent thereon; and

(C) in the case of projects undertaken in Mexico, includes technical training and development of infrastructure necessary for the conservation and management of wetlands and studies on the sustainable use of wetland resources.

16 USC 4403.

SEC. 4. ESTABLISHMENT OF NORTH AMERICAN WETLANDS CONSERVATION COUNCIL.

(a) COUNCIL MEMBERSHIP.—(1) There shall be established a North American Wetlands Conservation Council (hereinafter in this Act referred to as the "Council") which shall consist of nine members who may not receive compensation as members of the Council. Of the Council members—

(A) one shall be the Director of the United States Fish and Wildlife Service;

(B) one shall be the Secretary of the Board of the National Fish and Wildlife Foundation appointed pursuant to section 3(2)(B) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702);

(C) four shall be individuals who shall be appointed by the Secretary, who shall reside in different flyways and who shall each be a Director of the State fish and wildlife agency; and

(D) three shall be individuals who shall be appointed by the Secretary and who shall each represent a different charitable and nonprofit organization which is actively participating in carrying out wetlands conservation projects under this Act, the Plan, or the Agreement.

(2) The Secretary shall appoint an alternate member of the Council who shall be knowledgeable and experienced in matters relating

to fish, wildlife, and wetlands conservation and who shall perform the duties of a Council member appointed under subsection (a)(1)(C) or subsection (a)(1)(D) of this section—

(A) until a vacancy referred to in subsection (b)(4) of this section is filled; or

(B) in the event of the anticipated absence of such a member from any meeting of the Council.

(b) APPOINTMENT AND TERMS.—(1) Except as provided in paragraphs (2) and (3), the term of office of a member of the Council appointed under subsections (a)(1)(C) and (a)(1)(D) of this section is three years.

(2) Of the Council members first appointed under subsection (a)(1)(C) of this section after the date of enactment of this Act, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and two shall be appointed for a term of three years.

(3) Of the Council members first appointed under subsection (a)(1)(D) of this section after the date of enactment of this Act, one shall be appointed for a term of one year, one shall be appointed for a term of two years, and one shall be appointed for a term of three years.

(4) Whenever a vacancy occurs among members of the Council appointed under subsection (a)(1)(C) or subsection (a)(1)(D) of this section, the Secretary shall appoint an individual in accordance with either such subsection to fill that vacancy for the remainder of the applicable term.

(c) EX OFFICIO COUNCIL MEMBERS.—The Secretary is authorized and encouraged to include as ex officio nonvoting members of the Commission representatives of—

(1) the Federal, provincial, territorial, or State government agencies of Canada and Mexico, which are participating actively in carrying out one or more wetlands conservation projects under this Act, the Plan, or the Agreement;

(2) the Environmental Protection Agency and other appropriate Federal agencies, in addition to the United States Fish and Wildlife Service, which are participating actively in carrying out one or more wetlands conservation projects under this Act, the Plan, or the Agreement; and

(3) nonprofit charitable organizations and Native American interests, including tribal organizations, which are participating actively in one or more wetlands conservation projects under this Act, the Plan, or the Agreement.

(d) CHAIRMAN.—The Chairman shall be elected by the Council from its members for a three-year term, except that the first elected Chairman may serve a term of less than three years.

(e) QUORUM.—A majority of the current membership of the Council shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Council shall meet at the call of the Chairman at least once a year. Council meetings shall be open to the public. If a Council member appointed under subsection (a)(1)(C) or (a)(1)(D) of this section misses three consecutive regularly scheduled meetings, the Secretary may remove that individual in accordance with subsection (b)(4).

(g) COORDINATOR.—The Director of the United States Fish and Wildlife Service shall appoint an individual who shall serve at the pleasure of the Director and—

(1) who shall be educated and experienced in the principles of fish, wildlife, and wetlands conservation;

(2) who shall be responsible, with assistance from the United States Fish and Wildlife Service, for facilitating consideration of wetlands conservation projects by the Council and otherwise assisting the Council in carrying out its responsibilities under this Act; and

(3) who shall be compensated with the funds available under section 8(a)(1) for administering this Act.

16 USC 4404.

SEC. 5. APPROVAL OF WETLANDS CONSERVATION PROJECTS.

(a) CONSIDERATION BY THE COUNCIL.—The Council shall recommend wetlands conservation projects to the Migratory Bird Conservation Commission based on consideration of—

(1) the extent to which the wetlands conservation project fulfills the purposes of this Act, the Plan, or the Agreement;

(2) the availability of sufficient non-Federal moneys to carry out any wetlands conservation project and to match Federal contributions in accordance with the requirements of section 8(b) of this Act;

(3) the extent to which any wetlands conservation project represents a partnership among public agencies and private entities;

(4) the consistency of any wetlands conservation project in the United States with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921);

(5) the extent to which any wetlands conservation project would aid the conservation of migratory nongame birds, other fish and wildlife and species that are listed, or are candidates to be listed, as threatened and endangered under the Endangered Species Act (16 U.S.C. 1531 et seq.);

(6) the substantiality of the character and design of the wetlands conservation project; and

(7) the recommendations of any partnerships among public agencies and private entities in Canada, Mexico, or the United States which are participating actively in carrying out one or more wetlands conservation projects under this Act, the Plan, or the Agreement.

(b) RECOMMENDATIONS TO THE MIGRATORY BIRD CONSERVATION COMMISSION.—The Council shall submit to the Migratory Bird Conservation Commission by January 1 of each year, a description, including estimated costs, of the wetlands conservation projects which the Council has considered under subsection (a) of this section and which it recommends, in order of priority, that the Migratory Bird Conservation Commission approve for Federal funding under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act.

(c) COUNCIL PROCEDURES.—The Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section. The procedures shall include requirements that—

(1) a quorum of the Council must be present before any business may be transacted; and

(2) no recommendations referred to in subsection (b) of this section may be adopted by the Council except by the vote of two-thirds of all members present and voting.

(d) COUNCIL REPRESENTATION ON MIGRATORY BIRD CONSERVATION COMMISSION.—The Chairman of the Council shall select one Council member of the United States citizenship to serve with the Chairman as ex officio members of the Migratory Bird Conservation Commission for the purposes of considering and voting upon wetlands conservation projects recommended by the Council.

(e) APPROVAL OF COUNCIL RECOMMENDATIONS BY THE MIGRATORY BIRD CONSERVATION COMMISSION.—The Migratory Bird Conservation Commission, along with the two members of the Council referred to in subsection (d) of this section, shall approve, reject or reorder the priority of any wetlands conservation projects recommended by the Council based on, to the greatest extent practicable, the criteria of subsection (a) of this section. If the Migratory Bird Conservation Commission approves any wetlands conservation project, Federal funding shall be made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act. If the Migratory Bird Conservation Commission rejects or reorders the priority of any wetlands conservation project recommended by the Council, the Migratory Bird Conservation Commission shall provide the Council and the appropriate Committees with a written statement explaining its rationale for the rejection or the priority modification.

Reports.

(f) NOTIFICATION OF APPROPRIATE COMMITTEES.—The Migratory Bird Conservation Commission shall submit annually to the appropriate Committees a report including a list and description of the wetlands conservation projects approved by the Migratory Bird Conservation Commission for Federal funding under subsection (d) of this section in order of priority; the amounts and sources of Federal and non-Federal funding for such projects; a justification for the approval of such projects and the order of priority for funding such projects; a list and description of the wetlands conservation projects which the Council recommended, in order of priority that the Migratory Bird Conservation Commission approve for Federal funding; and a justification for any rejection or re-ordering of the priority of wetlands conservation projects recommended by the Council that was based on factors other than the criteria of section 5(a) of this Act.

National Wildlife Refuge System.
16 USC 4405.

SEC. 6. CONDITIONS RELATING TO WETLANDS CONSERVATION PROJECTS.

(a) PROJECTS IN THE UNITED STATES.—(1) Subject to the allocation requirements of section 8(a)(2) and the limitations on Federal contributions under section 8(b) of this Act, the Secretary shall assist in carrying out wetlands conservation projects in the United States, which have been approved by the Migratory Bird Conservation Commission, with the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act.

(2) Except as provided in paragraph (3), any lands or waters or interests therein acquired in whole or in part by the Secretary with the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, to carry out wetlands conservation projects shall be included in the National Wildlife Refuge System.

Real property.

(3) In lieu of including in the National Wildlife Refuge System any lands or waters or interests therein acquired under this Act, the Secretary may, with the concurrence of the Migratory Bird Conservation Commission, grant or otherwise provide the Federal funds made available under this Act and section 3(b) of the Act of Septem-

ber 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act or convey any real property interest acquired in whole or in part with such funds without cost to a State or to another public agency or other entity upon a finding by the Secretary that the real property interests should not be included in the National Wildlife Refuge System: *Provided,* That any grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Migratory Bird Conservation Commission. The Secretary shall not convey any such interest to a State, another public agency or other entity unless the Secretary determines that such State, agency or other entity is committed to undertake the management of the property being transferred in accordance with the objectives of this Act, and the deed or other instrument of transfer contains provisions for the reversion of title to the property to the United States if such State, agency or other entity fails to manage the property in accordance with the objectives of this Act. Any real property interest conveyed pursuant to this paragraph shall be subject to such terms and conditions that will ensure that the interest will be administered for the long-term conservation and management of the wetland ecosystem and the fish and wildlife dependent thereon.

Contracts.

Grants.

(b) PROJECTS IN CANADA OR MEXICO.—Subject to the allocation requirements of section 8(a)(1) and the limitations on Federal contributions under section 8(b) of this Act, the Secretary shall grant or otherwise provide the Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, to public agencies and other entities for the purpose of assisting such entities and individuals in carrying out wetlands conservation projects in Canada or Mexico that have been approved by the Migratory Bird Conservation Commission: *Provided,* That the grant recipient shall have been so identified in the project description accompanying the recommendation from the Council and approved by the Migratory Bird Conservation Commission. The Secretary may only grant or otherwise provide Federal funds if the grant is subject to the terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such Federal funds will be administered for the long-term conservation and management of such wetland ecosystem and the fish and wildlife dependent thereon. Real property and interests in real property acquired pursuant to this subsection shall not become part of the National Wildlife Refuge System. Acquisitions of real property and interests in real property carried out pursuant to this subsection shall not be subject to any provision of Federal law governing acquisitions of property for inclusion in the National Wildlife Refuge System.

16 USC 4406.

SEC. 7. AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.

(a) AID IN WILDLIFE RESTORATION.—(1) Section 3 of the Act of September 2, 1937 (16 U.S.C. 669b), is amended—

(A) by inserting "(a)" before "An amount" in the first sentence thereof; and

(B) by adding at the end thereof the following:

Securities.

"(b)(1) The Secretary of the Treasury shall invest in interest-bearing obligations of the United States such portion of the fund as is not, in his judgment, required for meeting a current year's withdrawals. For purposes of such investment, the Secretary of the Treasury may—

"(A) acquire obligations at the issue price and purchase outstanding obligations at the market price; and

"(B) sell obligations held in the fund at the market price.

"(2) The interest on obligations held in the fund—

"(A) shall be credited to the fund;

"(B) constitute the sums available for allocation by the Secretary under section 8 of the North American Wetlands Conservation Act; and

"(C) shall become available for apportionment under this Act at the beginning of fiscal year 2006.".

(2) Section 4(a) of the Act of September 2, 1937 (16 U.S.C. 669c(a)), is amended by inserting "(excluding interest accruing under section 3(b))" after "revenues" in the first sentence thereof.

Effective date.
16 USC 669b note.

(3) The amendments made by this subsection of this Act take effect October 1, 1989.

(b) MIGRATORY BIRD FINES, PENALTIES, FORFEITURES.—The sums received under section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707) as penalties or fines, or from forfeitures of property are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 8 of this Act. This subsection shall not be construed to require the sale of instrumentalities.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts made available under subsections (a) and (b) of this section, there are authorized to be appropriated to the Department of the Interior for purposes of allocation under section 8 of this Act not to exceed $15,000,000 for each of fiscal years 1991, 1992, 1993, and 1994.

(d) AVAILABILITY OF FUNDS.—Sums made available under this section shall be available until expended.

16 USC 4407.

SEC. 8. ALLOCATION OF AMOUNTS AVAILABLE TO CARRY OUT THIS ACT.

(a) ALLOCATIONS.—Of the sums available to the Secretary for any fiscal year under this Act and section 3(b) of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669b(b)), as amended by this Act—

(1) such percentage of that sum (but at least 50 per centum and not more than 70 per centum thereof) as is considered appropriate by the Secretary, which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, less such amount (but not more than 4 per centum of such percentage) considered necessary by the Secretary to defray the costs of administering this Act during such fiscal year, shall be allocated by the Secretary to carry out approved wetlands conservation projects in Canada and Mexico in accordance with section 6(b) of this Act; and

(2) the remainder of such sum after paragraph (1) is applied (but at least 30 per centum and not more than 50 per centum thereof), which can be matched with non-Federal moneys in accordance with the requirements of subsection (b) of this section, shall be allocated by the Secretary to carry out approved wetlands conservation projects in the United States in accordance with section 6(a) of this Act.

(b) FEDERAL CONTRIBUTION FOR PROJECTS.—The Federal moneys allocated under subsection (a) of this section for any fiscal year to carry out approved wetlands conservation projects shall be used for the payment of not to exceed 50 per centum of the total United States contribution to the costs of such projects, or may be used for payment of 100 per centum of the costs of such projects located on

Federal lands and waters, including the acquisition of inholdings within such lands and waters. The non-Federal share of the United States contribution to the costs of such projects may not be derived from Federal grant programs.

(c) Partial Payments.—(1) The Secretary may from time to time make payments to carry out approved wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (b) of this section.

Contracts.

(2) The Secretary may enter into agreements to make payments on an initial portion of an approved wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent allocations if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purposes of this Act.

16 USC 4408.

SEC. 9. RESTORATION, MANAGEMENT, AND PROTECTION OF WETLANDS AND HABITAT FOR MIGRATORY BIRDS ON FEDERAL LANDS.

The head of each Federal agency responsible for acquiring, managing, or disposing of Federal lands and waters shall, to the extent consistent with the mission of such agency and existing statutory authorities, cooperate with the Director of the United States Fish and Wildlife Service to restore, protect, and enhance the wetland ecosystems and other habitats for migratory birds, fish, and wildlife within the lands and waters of each such agency.

16 USC 4409.

SEC. 10. REPORT TO CONGRESS.

The Secretary shall report to the appropriate Committees on the implementation of this Act. The report shall include—

(1) a biennial assessment of—

(A) the estimated number of acres of wetlands and habitat for waterfowl and other migratory birds that were restored, protected, or enhanced during such two-year period by Federal, State, and local agencies and other entities in the United States, Canada, and Mexico;

(B) trends in the population size and distribution of North American migratory birds; and

(C) the status of efforts to establish agreements with nations in the western hemisphere pursuant to section 17 of this Act.

(2) an annual assessment of the status of wetlands conservation projects, including an accounting of expenditures by Federal, State, and other United States entities, and expenditures by Canadian and Mexican sources to carry out these projects.

16 USC 4410.

SEC. 11. REVISIONS TO THE PLAN.

The Secretary shall, in 1991 and at five-year intervals thereafter, undertake with the appropriate officials in Canada to revise the goals and other elements of the Plan in accordance with the information required under section 10 and with the other provisions of this Act. The Secretary shall invite and encourage the appropriate officials in Mexico to participate in any revisions of the Plan.

SEC. 12. RELATIONSHIP TO OTHER AUTHORITIES.

16 USC 4411.

(a) ACQUISITION OF LANDS AND WATERS.—Nothing in this Act affects, alters, or modifies the Secretary's authorities, responsibilities, obligations, or powers to acquire lands or waters or interests therein under any other statute.

(b) MITIGATION.—The Federal funds made available under this Act and section 3(b) of the Act of September 2, 1937 (16 U.S.C. 669b(b)), as amended by this Act, may not be used for fish and wildlife mitigation purposes under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) or the Water Resources Development Act of 1986, Public Law 99-662 (1986), 100 Stat. 4235.

SEC. 13. ADDITION OF EPA ADMINISTRATOR TO MIGRATORY BIRD CONSERVATION COMMISSION.

16 USC 4412.

Section 2 of the Migratory Bird Conservation Act (16 U.S.C. 715a) is amended by striking "the Secretary of Transportation," and inserting in lieu thereof "the Administrator of the Environmental Protection Agency,".

SEC. 14. LIMITATION ON ASSESSMENTS AGAINST MIGRATORY BIRD CONSERVATION FUND.

Notwithstanding any other provision of law, only those personnel and administrative costs directly related to acquisition of real property shall be levied against the Migratory Bird Conservation Account.

SEC. 15. TECHNICAL AND CONFORMING AMENDMENTS TO THE MIGRATORY BIRD TREATY ACT.

Section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) is amended—

(1) by striking "and" after "1936,"; and

Union of Soviet Socialist Republics.

(2) by inserting after "1972" the following: "and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976".

SEC. 16. OTHER AGREEMENTS.

International agreements.
16 USC 4413.

(a) The Secretary shall undertake with the appropriate officials of nations in the western hemisphere to establish agreements, modeled after the Plan or the Agreement, for the protection of migratory birds identified in section 13(a)(5) of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2912(a)). When any such agreements are reached, the Secretary shall make recommendations to the appropriate Committees on legislation necessary to implement the agreements.

(b) Section 13(a) of the Fish and Wildlife Conservation Act (16 U.S.C. 2912(a)) is amended by striking "and" after "U.S.C. 1531 to 1543);" and striking "necessary." and inserting "necessary; and" and adding at the end the following:

"(5) identify lands and waters in the United States and other nations in the Western Hemisphere whose protection, management, or acquisition will foster the conservation of species, subspecies, and populations of migratory nongame birds, including those identified in paragraph (3).".

SEC. 17. TO EXPAND THE BOGUE CHITTO NATIONAL WILDLIFE REFUGE.

16 USC 668dd note.

The Act entitled "An Act to establish the Bogue Chitto National Wildlife Refuge" (Public Law 96-288; 94 Stat. 603), as amended, is further amended by—

(1) striking the period at the end of subsection 3(b) and inserting in lieu thereof: ", and within an area of approximately 10,000 acres as depicted upon a map entitled "Bogue Chitto NWR Expansion", dated September, 1989 and on file with the United States Fish and Wildlife Service."; and

(2) by deleting "$10,000,000" in subsection 5(a) and inserting in lieu thereof "such sums as may be necessary".

SEC. 18. WETLANDS ASSESSMENTS.

(a) Section 401(a) of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3931(a)) is amended by adding the following new paragraph:

Reports.

"(5) produce, by April 30, 1990, a report that provides—

"(A) an assessment of the estimated total number of acres of wetland habitat as of the 1780's in the areas that now comprise each State; and

"(B) an assessment of the estimated total number of acres of wetlands in each State as of the 1980's, and the percentage of loss of wetlands in each State between the 1780's and the 1980's.".

(b) Section 401 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3931) is amended by deleting "and" at the end of paragraph (3) and inserting "and" at the end of paragraph (4).

Approved December 13, 1989.

LEGISLATIVE HISTORY—S. 804 (H.R. 2587):

HOUSE REPORTS: No. 101-269 accompanying H.R. 2587 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-161 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 10, H.R. 2587 considered and passed House.
Nov. 15, S. 804 considered and passed Senate.
Nov. 17, considered and passed House, amended.
Nov. 19, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Dec. 13, Presidential remarks and statement.

○

Public Law 101-234
101st Congress

An Act

To repeal medicare provisions in the Medicare Catastrophic Coverage Act of 1988.

Dec. 13, 1989
[H.R. 3607]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medicare Catastrophic Coverage Repeal Act of 1989.
42 USC 1305 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Catastrophic Coverage Repeal Act of 1989".

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

SEC. 101. REPEAL OF EXPANSION OF MEDICARE PART A BENEFITS.

42 USC 1395e note.

(a) In General.—

(1) General rule.—Except as provided in paragraph (2), sections 101, 102, and 104(d) (other than paragraph (7)) of the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360) (in this Act referred to as "MCCA") are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such section had not been enacted.

42 USC 1395c-1395f, 1395k, 1395x, 1395cc, 1395tt.

(2) Exception for blood deduction.—The repeal of section 102(1) of MCCA (relating to deductibles and coinsurance under part A) shall not apply, but only insofar as such section amended paragraph (2) of section 1813(a) of the Social Security Act (relating to a deduction for blood).

(b) Transition Provisions for Medicare Beneficiaries.—

42 USC 1395e note.

(1) Inpatient hospital services and post-hospital extended care services.—In applying sections 1812 and 1813 of the Social Security Act, as restored by subsection (a)(1), with respect to inpatient hospital services and extended care services provided on or after January 1, 1990—

(A) no day before January 1, 1990, shall be counted in determining the beginning (or period) of a spell of illness;

(B) with respect to the limitation on such services provided in a spell of illness, days of such services before January 1, 1990, shall not be counted, except that days of inpatient hospital services before January 1, 1989, which were applied with respect to an individual after receiving 90 days of services in a spell of illness (commonly known as "lifetime reserve days") shall be counted;

(C) the limitation of coverage of extended care services to post-hospital extended care services shall not apply to an individual receiving such services from a skilled nursing facility during a continuous period beginning before (and including) January 1, 1990, until the end of the period of 30 consecutive days in which the individual is not provided inpatient hospital services or extended care services; and

(D) the inpatient hospital deductible under section 1813(a)(1) of such Act shall not apply—

(i) in the case of an individual who is receiving inpatient hospital services during a continuous period beginning before (and including) January 1, 1990, with respect to the spell of illness beginning on such date, if such a deductible was imposed on the individual for a period of hospitalization during 1989;

(ii) for a spell of illness beginning during January 1990, if such a deductible was imposed on the individual for a period of hospitalization that began in December 1989; and

(iii) in the case of a spell of illness of an individual that began before January 1, 1990.

(2) HOSPICE CARE.—The restoration of section 1812(a)(4) of the Social Security Act, effected by subsection (a)(1), shall not apply to hospice care provided during the subsequent period (described in such section as in effect on December 31, 1989) with respect to which an election has been made before January 1, 1990.

42 USC 1395e note.

(3) TERMINATION OF HOLD HARMLESS PROVISIONS.—Section 104(b) of MCCA is amended by striking "or 1990" each place it appears.

(c) TERMINATION OF TRANSITIONAL ADJUSTMENTS IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—

42 USC 1395ww note.

(1) PPS HOSPITALS.—Section 104(c)(1) of MCCA is amended by inserting "and before January 1, 1990," after "October 1, 1988,".

(2) PPS-EXEMPT HOSPITALS.—

(A) IN GENERAL.—Section 104(c)(2) of MCCA is amended—

(i) by inserting "and before January 1, 1990," after "January 1, 1989,"; and

(ii) by striking the period at the end and inserting the following: ", without regard to whether any of such beneficiaries exhausted medicare inpatient hospital insurance benefits before January 1, 1989.".

42 USC 1395ww note.

(B) TRANSITION.—The Secretary of Health and Human Services shall make an appropriate adjustment to the target amount established under section 1886(b)(3)(A) of the Social Security Act in the case of inpatient hospital services provided to an inpatient whose stay began before January 1, 1990, in order to take into account the target amount that would have applied but for the amendments made by this title.

42 USC 1395c note.

(d) EFFECTIVE DATE.—The provisions of this section shall take effect January 1, 1990, except that the amendments made by subsection (c) shall be effective as if included in the enactment of MCCA.

SEC. 102. REPEAL OF SUPPLEMENTAL MEDICARE PREMIUM AND FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

26 USC 59B and notes, 6050F and note; 42 USC 1395i-1a and note.

(a) IN GENERAL.—Sections 111 and 112 of MCCA are repealed and the provisions of law amended by such sections are restored or revived as if such sections had not been enacted.

(b) Delay in Study Deadline.—Section 113(c) of MCCA is amended by striking "November 30, 1988" and inserting "May 31, 1990".

42 USC 1395t note.

(c) Disposal of Funds in Federal Hospital Insurance Catastrophic Coverage Reserve Fund.—Any balance in the Federal Hospital Insurance Catastrophic Coverage Reserve Fund (created under section 1817A(a) of the Social Security Act, as inserted by section 112(a) of MCCA) as of January 1, 1990, shall be transferred into the Federal Supplementary Medical Insurance Trust Fund and any amounts payable due to overpayments into such Trust Fund shall be payable from the Federal Supplementary Medical Insurance Trust Fund.

26 USC 59B note.

(d) Effective Dates.—

(1) In general.—Except as provided in this subsection, the provisions of this section shall take effect January 1, 1990.

(2) Repeal of supplemental medicare premium.—The repeal of section 111 of MCCA shall apply to taxable years beginning after December 31, 1988.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM

SEC. 201. REPEAL OF EXPANSION OF MEDICARE PART B BENEFITS.

42 USC 1320a-7a note.

(a) In General.—

42 USC 1320a-7a, 1320c-3 and note, 1395b-1 note, 1395h, 1395k and notes, 1395*l*, 1395m and notes, 1395n, 1395u and notes, 1395w-2, 1395w-3, 1395x and notes, 1395y, 1395z, 1395aa-1395bb, 1395cc, 1395mm, 1395*ll* note, 1395ww note, 1396a, 1396b, 1396n.

(1) General rule.—Except as provided in paragraph (2), sections 201 through 208 of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(2) Exception.—Paragraph (1) shall not apply to subsections (g) and (m)(4) of section 202 of MCCA.

(b) Conforming Amendments.—Section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (3)(C)—

(A) by striking "Subject to paragraph (4), deductibles" and inserting "Deductibles", and

(B) by striking "1813, section 1833(b)" and all that follows and inserting "1813 and section 1833(b)).''; and

(2) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(c) Effective Date.—The provisions of this section shall take effect January 1, 1990.

42 USC 1320a-7a note.

SEC. 202. REPEAL OF CHANGES IN MEDICARE PART B MONTHLY PREMIUM AND FINANCING.

42 USC 401 note.

42 USC 401, 1395i, 1395*l*, 1395r and note, 1395s, 1395t, 1395t-1, 1395t-2, 1395w, 1395mm.

(a) In General.—Sections 211 through 213 (other than sections 211(b) and 211(c)(3)(B)) of MCCA are repealed and the provisions of law amended or repealed by such sections are restored or revised as if such sections had not been enacted.

(b) Effective Date.—The provisions of subsection (a) shall take effect January 1, 1990, and the repeal of section 211 of MCCA shall apply to premiums for months beginning after December 31, 1989.

SEC. 203. AMENDMENT OF CERTAIN MISCELLANEOUS PROVISIONS.

(a) Revision of Medigap Regulations.—

(1) IN GENERAL.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 221(d) of MCCA, is amended—

(A) in the third sentence of subsection (a) and in subsection (b)(1), by striking "subsection (k)(3)" and inserting "subsections (k)(3), (k)(4), (m), and (n)";

(B) in subsection (k)—

(i) in paragraph (1)(A), by inserting "except as provided in subsection (m)," before "subsection (g)(2)(A)", and

(ii) in paragraph (3), by striking "subsection (l)" and inserting "subsections (l), (m), and (n)"; and

(C) by adding at the end the following new subsections:

State and local governments.

"(m)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection and subsection (n) referred to as the 'Association') revises the amended NAIC Model Regulation (referred to in subsection (k)(1)(A) and adopted on September 20, 1988) to improve such regulation and otherwise to reflect the changes in law made by the Medicare Catastrophic Coverage Repeal Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the amended NAIC Model Regulation (referred to in subsection (k)(1)(A)) as revised by the Association in accordance with this paragraph (in this subsection and subsection (n) referred to as the 'revised NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised NAIC Model Regulation or 1 year after the date the Association first adopts such revised Regulation.

"(2)(A) If the Association does not revise the amended NAIC Model Regulation, within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, revised Federal model standards (in this subsection and subsection (n) referred to as 'revised Federal model standards') for medicare supplemental policies to improve such standards and otherwise to reflect the changes in law made by the Medicare Catastrophic Coverage Repeal Act of 1989, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the revised Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the revised Federal model standards or 1 year after the date the Secretary first promulgates such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (n))—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

"(n)(1) Until the date specified in paragraph (4), in the case of a qualifying medicare supplemental policy described in paragraph (3) issued in a State—

"(A) before the transition deadline, the policy is deemed to remain in compliance with the standards described in subsection (b)(1)(A) only if the insurer issuing the policy complies with the transition provision described in paragraph (2), or

"(B) on or after the transition deadline, the policy is deemed to be in compliance with the standards described in subsection (b)(1)(A) only if the insurer issuing the policy complies with the revised NAIC Model Regulation or the revised Federal model standards (as the case may be) before the date of the sale of the policy.

In this paragraph, the term 'transition deadline' means 1 year after the date the Association adopts the revised NAIC Model Regulation or 1 year after the date the Secretary promulgates revised Federal model standards (as the case may be).

"(2) The transition provision described in this paragraph is—

"(A) such transition provision as the Association provides, by not later than December 15, 1989, so as to provide for an appropriate transition (i) to restore benefit provisions which are no longer duplicative as a result of the changes in benefits under this title made by the Medicare Catastrophic Coverage Repeal Act of 1989 and (ii) to eliminate the requirement of payment for the first 8 days of coinsurance for extended care services, or

"(B) if the Association does not provide for a transition provision by the date described in subparagraph (A), such transition provision as the Secretary shall provide, by January 1, 1990, so as to provide for an appropriate transition described in subparagraph (A).

"(3) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy which has been issued in compliance with this section as in effect on the date before the date of the enactment of this subsection.

"(4)(A) The date specified in this paragraph for a policy issued in a State is—

"(i) the first date a State adopts, after the date of the enactment of this subsection, standards equal to or more stringent than the revised NAIC Model Regulation (or revised Federal model standards), as the case may be, or

"(ii) the date specified in subparagraph (B),

whichever is earlier.

"(B) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1990 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1,

1990. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(5) In the case of a medicare supplemental policy in effect on January 1, 1990, the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policyholder or certificate holder under such policy on such date is sent a notice in an appropriate form by not later than January 31, 1990, that explains—

"(A) the changes in benefits under this title effected by the Medicare Catastrophic Coverage Repeal Act of 1989, and

"(B) how these changes may affect the benefits contained in such policy and the premium for the policy.

"(6)(A) Except as provided in subparagraph (B), in the case of an individual who had in effect, as of December 31, 1988, a medicare supplemental policy with an insurer (as a policyholder or, in the case of a group policy, as a certificate holder) and the individual terminated coverage under such policy before the date of the enactment of this subsection, no medicare supplemental policy of the insurer shall be deemed to meet the standards in subsection (c) unless the insurer—

"(i) provides written notice, no earlier than December 15, 1989, and no later than January 30, 1990, to the policyholder or certificate holder (at the most recent available address) of the offer described in clause (ii), and

"(ii) offers the individual, during a period of at least 60 days beginning not later than February 1, 1990, reinstitution of coverage (with coverage effective as of January 1, 1990), under the terms which (I) do not provide for any waiting period with respect to treatment of pre-existing conditions, (II) provides for coverage which is substantially equivalent to coverage in effect before the date of such termination, and (III) provides for classification of premiums on which terms are at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage never terminated.

"(B) An insurer is not required to make the offer under subparagraph (A)(ii) in the case of an individual who is a policyholder or certificate holder in another medicare supplemental policy as of the date of the enactment of this subsection, if (as of January 1, 1990) the individual is not subject to a waiting period with respect to treatment of a pre-existing condition under such other policy.".

42 USC 1395mm note.

(b) ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.—Notwithstanding any other provision of this Act, the amendments made by this Act (other than the repeal of sections 1833(c)(5) and 1834(c)(6) of the Social Security Act) shall not apply to risk-sharing contracts, for contract year 1990—

(1) with eligible organizations under section 1876 of the Social Security Act, or

(2) with health maintenance organizations under section 1876(i)(2)(A) of such Act (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972.

42 USC 1395b-2 note.

(c) NOTICE OF CHANGES.—The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act for 1990, for a description of the changes in benefits under title XVIII of such Act made by the amendments made by this Act.

(d) Miscellaneous Technical Correction.—Section 221(g)(3) of MCCA is amended by striking "subsection (f)" and inserting "subsection (e)".

42 USC 1395ss note.

(e) Effective Date.—The provisions of this section shall take effect January 1, 1990, except that the amendment made by subsection (d) shall be effective as if included in the enactment of MCCA.

42 USC 1395ss note.

TITLE III—MISCELLANEOUS AMENDMENTS

SEC. 301. MISCELLANEOUS MCCA AMENDMENTS.

(a) In General.—Sections 421 through 425 and 427 of MCCA are repealed and any provision of law amended or repealed by such sections is restored or revived as if such sections had not been enacted.

5 USC 902 note; 42 USC 1395b note, 1395b–1 note, 1395b–2 note, 1395h note.

(b) Miscellaneous Technical Corrections.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act, as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "insurance and deductibles under section 1835(a)(1)(I)" and inserting "coinsurance and deductibles under sections 1833(a)(1)(J)".

42 USC 1395m.

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act, as added by section 4085(i)(7)(C) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "accordingly" and inserting "according".

42 USC 1395u.

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act, as added by section 4006(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "may) be" and inserting "may be)"

42 USC 1395ww.

(4) Section 1866(a)(1)(F)(i)(III) of the Social Security Act is amended by striking "fiscal year))" and inserting "fiscal year)".

42 USC 1395cc.

(5) Section 1875(c)(7) of the Social Security Act, as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "date of the enactment of this Act" and inserting "date of the enactment of this section".

42 USC 1395*ll*.

(6) Section 1842(j)(2)(B) of the Social Security Act, as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by striking "paragraphs" and inserting "subsections".

(c) Miscellaneous Corrections Relating to the Omnibus Budget Reconciliation Act of 1987.—

(1) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 1834(b)(4)(A) of the Social Security Act (42 U.S.C. 1395m(b)(4)(A)), as added by section 4049(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "insurance and deductibles under section 1835(a)(1)(I)" and inserting "coinsurance and deductibles under sections 1833(a)(1)(J)".

(2) Section 1842(j)(1)(C)(vii) of the Social Security Act (42 U.S.C. 1395u(j)(1)(C)(viii)), as added by section 4085(i)(7)(C) of the

Omnibus Budget Reconciliation Act of 1987, is amended by striking "accordingly" and inserting "according".

(3) Section 1886(g)(3)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)(iv)), as added by section 4006(a)(2) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "may) be" and inserting "may be)".

(d) OTHER CORRECTIONS.—

(1) Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended by striking "fiscal year))" and inserting "fiscal year)".

(2) Section 1875(c)(7) of the Social Security Act (42 U.S.C. 1395ll(c)(7)), as added by section 9316(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking "date of the enactment of this Act" and inserting "date of the enactment of this section".

(3) Section 1842(j)(2)(B) of the Social Security Act (42 U.S.C. 1395u(j)(2)(B)), as amended by section 8(c)(2)(A) of the Medicare and Medicaid Fraud and Abuse Patient Protection Act of 1987, is amended by striking "paragraphs" and inserting "subsections".

42 USC 1395u note.

(e) EFFECTIVE DATE.—The provisions of this section (other than subsections (c) and (d)) shall take effect January 1, 1990, except that—

(1) the repeal of section 421 of MCCA shall not apply to duplicative part A benefits for periods before January 1, 1990, and

(2) the amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

Approved December 13, 1989.

LEGISLATIVE HISTORY—H.R. 3607:

HOUSE REPORTS: No. 101-378 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 8, considered and passed House; considered and passed Senate, amended.
Nov. 19, House agreed to conference report. Senate rejected conference report.
Nov. 21, Senate receded from its amendment.

○

Public Law 101-235
101st Congress

An Act

To amend Federal laws to reform housing, community and neighborhood development, and related programs, and for other purposes.

Dec. 15, 1989
[H.R. 1]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Housing and Urban Development Reform Act of 1989.
42 USC 3531 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Department of Housing and Urban Development Reform Act of 1989".

(b) Table of Contents.—

Sec. 1. Short title and table of contents.

TITLE I—REFORMS TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subtitle A—Ethics

Sec. 101. Allocation of housing assistance.
Sec. 102. HUD accountability.
Sec. 103. Prohibition of advance disclosure of funding decisions.
Sec. 104. Reform of headquarters reserve.
Sec. 105. Reform of CDBG discretionary fund and provision of technical assistance.
Sec. 106. Waiver of regulation requirements and handbook provisions.
Sec. 107. Civil money penalties against mortgagees and lenders.
Sec. 108. Civil money penalties against multifamily mortgagors.
Sec. 109. Civil money penalties against section 202 mortgagors.
Sec. 110. Civil money penalties against GNMA issuers.
Sec. 111. Civil money penalties for violations of Interstate Land Sales Full Disclosure Act.
Sec. 112. Registration of consultants.

Subtitle B—Management Reform

Sec. 121. Establishment of HUD Chief Financial Officer.
Sec. 122. Establishment of FHA Comptroller.
Sec. 123. Expediting rulemaking.
Sec. 124. Funding for program evaluation and monitoring.
Sec. 125. Refinancing of section 235 mortgages.
Sec. 126. Sanctions for improper conveyances under urban homestead programs.
Sec. 127. Reform of moderate rehabilitation program.

Subtitle C—Federal Housing Administration Reforms

Sec. 131. Annual audited financial statements.
Sec. 132. Credit reviews of persons acquiring mortgaged properties under single family program for life of mortgage.
Sec. 133. Repeal of title X land development program.
Sec. 134. Civil money penalties for improper dealer and loan broker participation in origination of property improvement loans.
Sec. 135. Notification regarding suspended mortgagees.
Sec. 136. FHA foreclosed properties.
Sec. 137. Report regarding providing foreclosed properties to 1989 disaster victims.
Sec. 138. Report regarding actions to improve direct endorsement program.
Sec. 139. Co-insurance amendments.
Sec. 140. FHA management.
Sec. 141. Contracting for financial management support.
Sec. 142. FHA operations.

Sec. 143. Elimination of private investor-owners from single family mortgage insurance program.

TITLE II—HOUSING PRESERVATION

Sec. 201. Limitations on prepayment.
Sec. 202. Clarification of applicability to voluntary termination of insurance.
Sec. 203. Incentives to extend low-income use.
Sec. 204. Preservation.
Sec. 205. Report on property disposition demonstration.
Sec. 206. Prohibition on prepayment of new rural housing loans.
Sec. 207. Equity takeout incentive for new rural housing loans.

TITLE III—HOUSING PROGRAM EXTENSIONS AND CHANGES

Sec. 301. Flexible subsidy program.
Sec. 302. Continuation of public housing economic rent.
Sec. 303. Extension of reciprocity in approval of housing subdivisions among Federal agencies.
Sec. 304. HODAG Amendment.

TITLE IV—RURAL HOUSING

Sec. 401. Accountability in awards of assistance; remedies and penalties.
Sec. 402. Reuse of section 515 loan authority.

TITLE V—NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

Sec. 501. Purpose.
Sec. 502. Establishment of Commission.
Sec. 503. Membership of Commission.
Sec. 504. Functions of the Commission.
Sec. 505. Powers of Commission.
Sec. 506. Authorization of appropriations.
Sec. 507. Sunset.

TITLE VI—NATIONAL COMMISSION ON NATIVE AMERICAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

Sec. 601. Establishment.
Sec. 602. Membership.
Sec. 603. Functions of the Commission.
Sec. 604. Powers of the Commission.
Sec. 605. Authorization of appropriations.

TITLE VII—MISCELLANEOUS

Sec. 701. Nullification of right of redemption of single family mortgagors under section 312 rehabilitation loan program.
Sec. 702. CDBG Grants to Indian tribes.

TITLE VIII—SECTION 8 RENT ADJUSTMENTS

Sec. 801. Annual adjustment factors for section 8 rents.

TITLE I—REFORMS TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subtitle A—Ethics

SEC. 101. ALLOCATION OF HOUSING ASSISTANCE.

42 USC 1439.

(a) Assistance Subject to Formula Allocation.—Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended to read as follows:

Regulations.
State and local governments.

"(d)(1)(A) Except as provided by subparagraph (B), the Secretary shall allocate assistance referred to in subsection (a)(1) the first time it is available for reservation on the basis of a formula that is contained in a regulation prescribed by the Secretary, and that is based on the relative needs of different States, areas, and communities, as reflected in data as to population, poverty, housing overcrowding, housing vacancies, amount of substandard housing, and other objectively measurable conditions specified in the regulation. In allocating assistance under this paragraph for each program of housing assistance under subsection (a)(1), the Secretary shall apply the formula, to the extent practicable, in a manner so that the assistance under the program is allocated according to the particular relative needs under the preceding sentence that are characteristic of and related to the particular type of assistance provided under the program. Assistance under section 202 of the Housing Act of 1959 shall be allocated in a manner that ensures that awards of the assistance under such section are made for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents.

Aged persons.

"(B) The formula allocation requirements of subparagraph (A) shall not apply to—

"(i) assistance that is approved in appropriation Acts for use under sections 9 or 14, or the rental rehabilitation grant program under section 17, of the United States Housing Act of 1937, except that the Secretary shall comply with section 102 of the Department of Housing and Urban Development Reform Act of 1989 with respect to such assistance; or

Contracts.
Indians.

"(ii) other assistance referred to in subsection (a) that is approved in appropriation Acts for uses that the Secretary determines are incapable of geographic allocation, including amendments of existing contracts, renewal of assistance contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the assistance contract, assistance to prevent displacement or to provide replacement housing in connection with the demolition or disposition of public and Indian housing, and assistance in support of the property disposition and loan management functions of the Secretary.

"(C) Any allocation of assistance under subparagraph (A) shall, as determined by the Secretary, be made to the smallest practicable area, consistent with the delivery of assistance through a meaningful competitive process designed to serve areas with greater needs.

"(D) Any amounts allocated to a State or areas or communities within a State that are not likely to be used within a fiscal year shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities (that are eligible for assistance under the program) within the same State cannot use the amounts within that same fiscal year.".

(b) **ALLOCATION TO NONMETROPOLITAN AREAS.**—The second sentence of section 213(d)(2) of the Housing and Community Development Act of 1974 is amended by striking "such assistance" and inserting "the assistance that is subject to allocation under paragraph (1)(A)".

42 USC 1439.

(c) **COMPETITION FOR ASSISTANCE.**—Section 213(d) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary shall not reserve or obligate assistance subject to allocation under paragraph (1)(A) to specific recipients, unless the assistance is first allocated on the basis of the formula contained in that paragraph and then is reserved and obligated pursuant to a competition.

"(B) Any competition referred to in subparagraph (A) shall be conducted pursuant to specific criteria for the selection of recipients of assistance. The criteria shall be contained in—

Regulations.

"(i) a regulation promulgated by the Secretary after notice and public comment; or

Federal Register, publication.

"(ii) to the extent authorized by law, a notice published in the Federal Register.

"(C) Subject to the times at which appropriations for assistance subject to paragraph (1)(A) may become available for reservation in any fiscal year, the Secretary shall take such steps as the Secretary deems appropriate to ensure that, to the maximum extent practicable, the process referred to in subparagraph (A) is carried out with similar frequency and at similar times for each fiscal year.

"(D) This paragraph shall not apply to assistance referred to in paragraph (4).".

Contracts. 42 USC 1437aa note.

(d) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by subsections (a), (b), and (c) of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

42 USC 1439.

(e) CONFORMING AMENDMENT.—Section 213(a)(1) of the Housing and Community Development Act of 1974 is amended by striking "section 235 or 236 of the National Housing Act,".

42 USC 3545.

SEC. 102. HUD ACCOUNTABILITY.

Federal Register, publication.

(a) NOTICE REGARDING ASSISTANCE.—

(1) PUBLICATION OF NOTICE OF AVAILABILITY.—The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary.

(2) PUBLICATION OF APPLICATION PROCEDURES.—The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be designed to help eligible applicants to apply for such assistance.

(3) PUBLICATION OF SELECTION CRITERIA.—Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Subject to section 213 of the Housing and Community Development Act of 1974, such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

(4) DOCUMENTATION OF DECISIONS.—

(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or allocation was made or denied. The preceding sentence shall apply to—

State and local governments.

(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

State and local governments.

(C)(i) The Secretary shall notify the public of all funding decisions made by the Department. The Secretary shall require any State or unit of general local government to notify the public of the award or allocation of such funding to subsequent recipients. The notification shall include the following elements for each funding decision:

(I) the name and address of each funding recipient;

(II) the name or other means of identifying the project, activity, or undertaking for each funding recipient;

(III) the dollar amount of the funding for each project, activity, or undertaking;

(IV) the citation to the statutory, regulatory, or other criteria under which the funding decision was made; and

(V) such additional information as the Secretary deems appropriate for a clear and full understanding of the funding decision.

(ii) The notification referred to in clause (i) of this subsection shall be published as a Notice in the Federal Register at least quarterly.

(iii) For purposes of this subparagraph, the term 'funding decision' means the decision of the Secretary to make available grants, loans, or any other form of financial assistance to an individual or to an entity, including (but not limited to) a State or local government or agency thereof (including a public housing agency), an Indian tribe, or a nonprofit organization, under any program administered by the Department that provides, by statute, regulation, or otherwise, for the competitive distribution of financial assistance.

(D) The Secretary shall publish a notice in the Federal Register at least annually informing the public of the allocation of assistance under section 213(d)(1)(A) of the Housing and Community Development Act of 1974.

Public information.

(E) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B), including each letter of support, is readily available for public inspection for a period of not less than 5 years, beginning not less than 30 days following the date on which the award or allocation is made.

(5) Emergency exception.—The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for appropriate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary's reasons for so doing.

State and local governments.

(b) DISCLOSURES BY APPLICANTS.—The Secretary shall require the disclosure of information with respect to any application for assistance within the jurisdiction of the Department for a project application submitted to the Secretary or to any State or unit of general local government by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance within the jurisdiction of the Department in excess of $200,000 in the aggregate during any fiscal year or such lower amount as the Secretary may establish by regulation. Such information shall include the following:

(1) OTHER GOVERNMENT ASSISTANCE.—Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

(2) INTERESTED PARTIES.—The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

Reports.

(3) EXPECTED SOURCES AND USES.—A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

(c) UPDATING OF DISCLOSURE.—During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

(d) LIMITATION OF ASSISTANCE.—The Secretary shall certify that assistance within the jurisdiction of the Department to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance described in subsection (b)(1). The Secretary shall adjust the amount of assistance awarded or allocated to an applicant to compensate in whole or in part, as the Secretary determines to be appropriate, for any changes reported under subsection (c).

(e) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b) or (c) has occurred, the Secretary shall—

(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

(2) in the case of a selection that has been made, determine whether to—

(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

(B) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

(C) recapture any funds that have been disbursed;

(D) permit the violating applicant selected to continue to participate in the program; or

(E) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this subsection.

Federal Register, publication.

(f) CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—Whenever any person knowingly and materially violates any provision of subsection (b) or (c), the Secretary may impose a civil money penalty on that person in accordance with the provisions of this section. This penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $10,000 for each violation.

(g) AGENCY PROCEDURES.—(1) The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (f). These standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity to make the determination;

(B) shall provide for the imposition of a penalty only after the person has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order, the determination or order shall be final.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (f), consideration shall be given to such factors as the gravity of the offense, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(3) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under subsection (f) shall not be subject to review, except as provided in subsection (h).

(h) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (g)(1), a person against whom the Secretary has imposed a civil money penalty under subsection (f) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (g)(1)(A) in the appropriate court of appeals of the United States, by filing

in such court, within 20 days after the entry of such order or determination, a written petition praying that the order or determination of the Secretary be modified or be set aside in whole or in part.

(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (g)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(i) ACTION TO COLLECT THE PENALTY.—If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (f), after the determination or order is no longer subject to review as provided by subsections (g)(1) and (h), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(j) SETTLEMENT BY THE SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(k) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(l) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this section into miscellaneous receipts of the Treasury.

(m) DEFINITIONS.—For the purpose of this section—

(1) The term "Department" means the Department of Housing and Urban Development.

(2) The term "Secretary" means the Secretary of Housing and Urban Development.

(3) The term "person" means an individual (including a consultant, lobbyist, or lawyer), corporation, company, association, authority, firm, partnership, society, State, local government, or any other organization or group of people.

(4) The term "assistance within the jurisdiction of the Department" includes any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

(5) The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(n) EFFECTIVE DATE.—This section shall take effect on the date specified in regulations implementing this section that are issued by the Secretary after notice and public comment.

SEC. 103. PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS.

The Department of Housing and Urban Development Act is amended by adding at the end the following new section:

"PROHIBITION OF ADVANCE DISCLOSURE OF FUNDING DECISIONS

"SEC. 12. (a) PROHIBITED ACTIONS.—During any selection process, no officer or employee of the Department of Housing and Urban Development shall knowingly disclose any covered selection information regarding such selection, directly or indirectly, to any person other than a person authorized by the Secretary to receive such information. 42 USC 3537a.

"(b) ADMINISTRATIVE REMEDIES.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (a) has occurred, the Secretary shall—

"(1) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

"(2) in the case of a selection that has been made, determine whether to—

"(A) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

"(B) impose sanctions upon the violating applicant selected, subject to review and determination on the record after opportunity for a hearing;

"(C) permit the violating applicant selected to continue to participate in the program; or

"(D) take any other actions that the Secretary considers appropriate.

"(c) CIVIL MONEY PENALTIES.—

"(1) IN GENERAL.—Whenever any employee of the Department knowingly and materially violates the prohibition in subsection (a), the Secretary may impose a civil money penalty on the employee in accordance with the provisions of this subsection. This penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary takes other disciplinary actions.

"(2) AMOUNT.—The amount of the penalty, as determined by the Secretary, may not exceed $10,000 for each violation.

"(3) AGENCY PROCEDURES.—

"(A) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this subsection. The standards and procedures—

"(i) shall provide for the Secretary or other official of the Department to make the determination to impose a penalty or to use an administrative entity to make the determination;

"(ii) shall provide for the imposition of a penalty only after the employee has been given an opportunity for a hearing on the record; and

"(iii) may provide for review of any determination or order, or interlocutory ruling, arising from a hearing.

"(B) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable order. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(C) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under paragraph (2), consideration shall be given to such factors as the gravity of the offense, any history of prior disclosures of information on pending funding decisions made after the date of enactment of this section, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(D) REVIEWABILITY OF IMPOSITION OF A PENALTY.—The Secretary's determination or order imposing a penalty under paragraph (1) shall not be subject to review, except as provided in paragraph (4).

"(4) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(A) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under paragraph (3)(A), an employee against whom the Secretary has imposed a civil money penalty under paragraph (1) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under paragraph (3)(A)(i) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(B) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to paragraph (3)(A) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(C) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(D) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(5) ACTION TO COLLECT PENALTY.—If any employee fails to comply with the Secretary's determination or order imposing a civil money penalty under paragraph (1), after the determination or order is no longer subject to review as provided by paragraphs (3)(A) and (4), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the employee and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(6) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this subsection.

"(7) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this subsection into miscellaneous receipts of the Treasury.

"(d) CRIMINAL PENALTIES.—Whoever willfully violates subsection (a) by making a disclosure prohibited by subsection (a) to any applicant, or any officer, employee, representative, agent, or consultant of any applicant, shall be imprisoned not more than 5 years, or fined in accordance with title 18, United States Code, or both.

"(e) DEFINITIONS.—For purposes of this section:

"(1) APPLICANT.—The term 'applicant' means any applicant or candidate that is being considered for receiving assistance.

"(2) ASSISTANCE.—The term 'assistance' means any grant, loan, subsidy, guarantee, or other financial assistance under a program administered by the Secretary that provides by statute, regulation, or otherwise for the competitive distribution of such assistance. The term does not include any mortgage insurance provided under a program administered by the Secretary.

"(3) COVERED SELECTION INFORMATION.—The term 'covered selection information' means—

"(A) any information that is contained in any application or request for assistance, or any information regarding the decision of the Secretary to make available assistance or other information that is determined by the Secretary to be information that is not generally available to the public (not including program requirements and timing of the decision to make assistance available); and

"(B) any information that is required by statute, regulation, or order to be confidential.

"(4) KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(5) SELECTION.—The term 'selection' means the determination of which applicants for assistance are to receive assistance under the program.

"(6) SELECTION PROCESS.—The term 'selection process' means the period with respect to a selection for assistance that begins with the development, preparation, and issuance of a solicitation or request for applications for the assistance and concludes with the selection of recipients of assistance, and includes the evaluation of applications.

"(f) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(g) APPLICABILITY.—This section shall apply only with respect to violations that occur on or after the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989.".

SEC. 104. REFORM OF HEADQUARTERS RESERVE.

42 USC 1439.

(a) FUNDING CATEGORIES.—Section 213(d)(4) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(4)(A) Notwithstanding any other provision of law, with respect to fiscal years beginning after September 30, 1990, the Secretary may retain not more than 5 percent of the financial assistance that becomes available under programs described in subsection (a)(1) during any fiscal year. Any such financial assistance that is retained shall be available for subsequent allocation to specific areas and communities, and may only be used for—

Disaster assistance.

"(i) unforeseen housing needs resulting from natural and other disasters;

"(ii) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

"(iii) housing needs resulting from the settlement of litigation; and

Desegregation.

"(iv) housing in support of desegregation efforts.

"(B) Any amounts retained in any fiscal year under subparagraph (A) that are unexpended at the end of such fiscal year shall remain available for the following fiscal year under the program under subsection (a)(1) from which the amount was retained. Such amounts shall be allocated on the basis of the formula under subsection (d)(1).".

42 USC 1439 note.

(b) EFFECTIVE DATE.—Any assistance made available under section 213(d)(4) of the Housing and Community Development Act of 1974 before October 1, 1990, or pursuant to a commitment for such assistance entered into before such date, shall be governed by the provisions of section 213(d)(4) as such section existed before the date of the enactment of this Act.

Contracts.
42 USC 1437aa note.

(c) INDIAN HOUSING.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendment made by subsection (a) and the provisions of subsection (b) of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

SEC. 105. REFORM OF CDBG DISCRETIONARY FUND AND PROVISION OF TECHNICAL ASSISTANCE.

42 USC 5307.

(a) SPECIAL PURPOSE GRANTS.—Section 107(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "in a special discretionary fund" in the first sentence; and

(2) by striking all that follows the period at the end of the second sentence.

(b) AUTHORIZED USES.—Section 107(b) of the Housing and Community Development Act of 1974 is amended—

(1) by striking paragraphs (1) and (3);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon;

(3) by redesignating paragraphs (2) and (5) (as amended) as paragraphs (1) and (2), respectively; and

(4) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

"(3) to historically Black colleges; and"; and

Schools and colleges.

(5) in paragraph (4)—

(A) by striking "and" after the third semicolon and all that follows through "and" after the fourth semicolon; and

(B) by striking "and" at the end and inserting the following: "for purposes of this paragraph the term 'technical assistance' means the facilitating of skills and knowledge in planning, developing, and administering activities under this title in entities that may need but do not possess such skills and knowledge, and includes assessing programs and activities under this title; except that any recipient of a grant under this paragraph that provides technical assistance pursuant to this paragraph shall provide for the notification of the availability of such assistance and shall have specific criteria for selection of recipients of such assistance that are published and publicly available.".

(c) FUNDING CRITERIA.—Section 107 of the Housing and Community Development Act of 1974 is amended by adding at the end the following new subsection:

42 USC 5307.

"(f) Any grant made under this section shall be made pursuant to criteria for selection of recipients of such grants that the Secretary shall by regulation establish and which the Secretary shall publish together with any notification of availability of amounts under this section.".

Grants.
Regulations.

(d) APPLICABILITY.—

42 USC 5307 note.
Grants.

(1) IN GENERAL.—Except as provided in this paragraph and paragraph (2), the amendments made by this section shall apply with respect to any grants made under section 107 of the Housing and Community Development Act of 1974 on or after the date of the enactment of this Act, except a grant made under the third sentence of section 107(a) of Housing and Community Development Act of 1974, as such sentence existed immediately before such date, and grants for specific activities (referred to in House Report Number 101-297) pursuant to the amount appropriated for use under section 107 by the enactment of the bill, H.R. 2916, of the One Hundred First Congress.

(2) PRIOR GRANTS.—Any grant made under section 107 of the Housing and Community Development Act of 1974 before the date of the enactment of this Act or pursuant to a grant award notification made before such date shall be governed by the provisions of such section as it existed immediately before the date of the enactment of this Act.

(e) CONFORMING AMENDMENT.—The section heading of section 107 of the Housing and Community Development Act of 1974 is amended to read as follows:

"SPECIAL PURPOSE GRANTS".

SEC. 106. WAIVER OF REGULATION REQUIREMENTS AND HANDBOOK PROVISIONS.

42 USC 3535.

Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end the following new subsection:

"(q)(1) Any waiver of regulations of the Department shall be in writing and shall specify the grounds for approving the waiver.

"(2) The Secretary may delegate authority to approve a waiver of a regulation only to an individual of Assistant Secretary rank or equivalent rank, who is authorized to issue the regulation to be waived.

Federal Register, publication.

"(3) The Secretary shall notify the public of all waivers of regulations approved by the Department. The notification shall be included in a notice in the Federal Register published not less than quarterly. Each notification shall cover the period beginning on the day after the last date covered by the prior notification, and shall—

"(A) identify the project, activity, or undertaking involved;

"(B) describe the nature of the requirement that has been waived and specify the provision involved;

"(C) specify the name and title of the official who granted the waiver request;

"(D) include a brief description of the grounds for approval of the waiver; and

"(E) state how more information about the waiver and a copy of the request and the approval may be obtained.

"(4) Any waiver of a provision of a handbook of the Department shall—

"(A) be in writing;

"(B) specify the grounds for approving the waiver; and

Public information.

"(C) be maintained in indexed form and made available for public inspection for not less than the 3-year period beginning on the date of the waiver.".

Loans.

SEC. 107. CIVIL MONEY PENALTIES AGAINST MORTGAGEES AND LENDERS.

(a) IN GENERAL.—Title V of the National Housing Act is amended by adding at the end the following new section:

"CIVIL MONEY PENALTIES AGAINST MORTGAGEES AND LENDERS

12 USC 1735f-14.

"SEC. 536. (a) IN GENERAL.—

"(1) AUTHORITY.—Whenever a mortgagee approved under this Act, or a lender holding a contract of insurance under title I of this Act, knowingly and materially violates any of the provisions of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $5,000 for each violation, except that the maximum penalty for all violations by any particular mortgagee or lender during any 1-year period shall not exceed $1,000,000. Each violation of a provision of subsection (b)(1) shall constitute a separate violation with respect to each mortgage or loan application. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

"(b) VIOLATIONS FOR WHICH A PENALTY MAY BE IMPOSED.—

"(1) VIOLATIONS.—The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a mortgagee or lender, as follows:

"(A) Except where expressly permitted by statute, regulation, or contract approved by the Secretary, transfer of a mortgage insured under this Act to a mortgagee not approved by the Secretary, or transfer of a loan to a transferee that is not holding a contract of insurance under title I of this Act.

"(B) Failure of a nonsupervised mortgagee, as defined by the Secretary—

"(i) to segregate all escrow funds received from a mortgagor for ground rents, taxes, assessments, and insurance premiums; or

"(ii) to deposit these funds in a special account with a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation through the Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations, or by the National Credit Union Administration.

"(C) Use of escrow funds for any purpose other than that for which they were received.

"(D) Submission to the Secretary of information that was false, in connection with any mortgage insured under this Act, or any loan that is covered by a contract of insurance under title I of this Act.

"(E) With respect to an officer, director, principal, or employee—

"(i) hiring such an individual whose duties will involve, directly or indirectly, programs administered by the Secretary, while that person was under suspension or withdrawal by the Secretary; or

"(ii) retaining in employment such an individual who continues to be involved, directly or indirectly, in programs administered by the Secretary, while that person was under suspension or withdrawal by the Secretary.

"(F) Falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity.

"(G) Failure to comply with an agreement, certification, or condition of approval set forth on, or applicable to—

"(i) the application of a mortgagee or lender for approval by the Secretary; or

"(ii) the notification by a mortgagee or lender to the Secretary concerning establishment of a branch office.

"(H) Violation of any provisions of title I, II, or X (as such title existed immediately before the effective date of the Department of Housing and Urban Development Reform Act of 1989) of this Act or any implementing regulation or handbook that is issued under this Act.

"(2) NOTIFICATION TO ATTORNEY GENERAL.—Before taking action to impose a civil money penalty for a violation under paragraph (1)(D) or paragraph (1)(F), the Secretary shall inform the Attorney General of the United States.

"(c) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). These standards and procedures—

"(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity (such as the Mortgagee Review Board, established pursuant to section 202(c) of the National Housing Act) to make the determination;

"(B) shall provide for the imposition of a penalty only after the mortgagee or lender has been given an opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including those before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (d).

"(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (c)(1), a mortgagee or lender against whom the Secretary has imposed a civil money penalty under subsection (a) may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under subsection (c)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's determination or order be modified or be set aside in whole or in part.

"(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (c)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of the additional evidence.

"(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(e) ACTION TO COLLECT PENALTY.—If any mortgagee or lender fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagee or lender and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(g) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(h) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(i) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the appropriate insurance fund or funds established under this Act, as determined by the Secretary.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to— 12 USC 1735f-14 note.

(1) violations referred to in the amendment that occur on or after the effective date of this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation referred to in the amendment that occurs on or after such date.

SEC. 108. CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS.

Loans.

(a) IN GENERAL.—Title V of the National Housing Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new section:

"CIVIL MONEY PENALTIES AGAINST MULTIFAMILY MORTGAGORS

"SEC. 537. (a) IN GENERAL.—The penalties set forth in this section shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the 12 USC 1735f-15.

Secretary imposes other administrative sanctions. The Secretary may not impose penalties under this section for violations a material cause of which are the failure of the Department, an agent of the Department, or a public housing agency to comply with existing agreements.

"(b) Penalty for Violation of Agreement as Condition of Transfer of Physical Assets, Flexible Subsidy Loan, Capital Improvement Loan, Modification of Mortgage Terms, or Workout Agreement.—

"(1) Authority.—Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to this Act, who has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, knowingly and materially fails to comply with any of these commitments, the Secretary may impose a civil money penalty on that mortgagor in accordance with the provisions of this section.

"(2) Amount of penalty.—The amount of the penalty, as determined by the Secretary, for a violation of this subsection may not exceed the amount of the loss the Secretary would experience at a foreclosure sale, or a sale after foreclosure, of the property involved.

"(c) Violations of Regulatory Agreement for Which Penalty May Be Imposed.—

Real property.

"(1) Violations.—The Secretary may also impose a civil money penalty under this section on any mortgagor of property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to this Act for any knowing and material violation of the regulatory agreement executed by the mortgagor, as follows:

"(A) Conveyance, transfer, or encumbrance of any of the mortgaged property, or permitting the conveyance, transfer, or encumbrance of such property, without the prior written approval of the Secretary.

"(B) Assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

"(C) Conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

"(D) Remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

"(E) Requiring, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent, plus a security deposit in an amount not in excess of 1 month's rent, to guarantee the performance of the covenants of the lease.

"(F) Not holding any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under the account.

"(G) Payment for services, supplies, or materials which exceeds $500 and substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.

"(H) Failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or any duly authorized agents of the Secretary.

"(I) Failure to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary.

"(J) Failure to furnish the Secretary, by the expiration of the 60-day period beginning on the 1st day after the completion of each fiscal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing. The Secretary shall approve an extension where the mortgagor demonstrates that failure to comply with this subparagraph is due to events beyond the control of the mortgagor.

"(K) At the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, failure to furnish monthly occupancy reports or failure to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage.

"(L) Failure to make promptly all payments due under the note and mortgage, including mortgage insurance premiums, tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments.

The pay out of surplus cash, as defined by and provided for in the regulatory agreement, shall not constitute a violation of such agreement.

"(2) AMOUNT OF PENALTY.—A penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000.

"(d) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsections (b) and (c). These standards and procedures—

"(A) shall provide for the Secretary or other department official (such as the Assistant Secretary for Housing) to make the determination to impose a penalty;

"(B) shall provide for the imposition of a penalty only after the mortgagor has been given an opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (b) or (c), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the tenants, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (b) or (c) shall not be subject to review, except as provided in subsection (e).

"(e) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (d)(1), a mortgagor against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (d)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(2) OBJECTIONS NOT RAISED IN HEARING.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (d)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(3) Scope of review.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(4) Order to pay penalty.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(f) Action To Collect Penalty.—If a mortgagor fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (b) or (c), after the determination or order is no longer subject to review as provided by subsections (d)(1) and (e), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagor and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(g) Settlement by Secretary.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(h) Definition of Knowingly.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(i) Regulations.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(j) Deposit of Penalties in Insurance Funds.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.".

(b) Applicability.—The amendment made by subsection (a) shall apply only with respect to violations referred to in the amendment that occur on or after the effective date of this section. 12 USC 1735f-15 note.

SEC. 109. CIVIL MONEY PENALTIES AGAINST SECTION 202 MORTGAGORS. Loans.

(a) In General.—Title II of the Housing Act of 1959 is amended by inserting after section 202 the following new section:

"CIVIL MONEY PENALTIES AGAINST SECTION 202 MORTGAGORS

"Sec. 202a. (a) In General.—The penalties set forth in this section shall be in addition to any other available civil remedy or criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions. The Secretary may not impose penalties under this section for violations a material cause of which are the failure of the Department, an agent of the Department, or a public housing agency to comply with existing agreements. 12 USC 1701q-1.

"(b) Penalty for Violation of Agreement as Condition of Transfer of Physical Assets, Flexible Subsidy Loan, Capital Improvement Loan, Modification of Mortgage Terms, or Workout Agreement.—

"(1) In general.—Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage held Real property.

pursuant to section 202, who has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, knowingly and materially fails to comply with any of these commitments, the Secretary may impose a civil money penalty on the mortgagor in accordance with the provisions of this section.

"(2) AMOUNT.—The amount of the penalty, as determined by the Secretary, for a violation of this subsection may not exceed the amount of the loss the Secretary would incur at a foreclosure sale, or sale after foreclosure, with respect to the property involved.

Real property.

"(c) VIOLATIONS OF REGULATORY AGREEMENT.—

"(1) IN GENERAL.—The Secretary may also impose a civil money penalty on a mortgagor or property that includes 5 or more living units and that has a mortgage held pursuant to section 202 for any knowing and material violation of the regulatory agreement executed by the mortgagor, as follows:

"(A) Conveyance, transfer, or encumbrance of any of the mortgaged property, or permitting the conveyance, transfer, or encumbrance of such property, without the prior written approval of the Secretary.

"(B) Assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

"(C) Conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

"(D) Remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

"(E) Requiring, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent, plus a security deposit in an amount not in excess of 1 month's rent, to guarantee the performance of the covenants of the lease.

"(F) Not holding any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under the account.

"(G) Payment for services, supplies, or materials which exceeds $500 and substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.

"(H) Failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or any duly authorized agents of the Secretary.

"(I) Failure to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary.

"(J) Failure to furnish the Secretary, by the expiration of the 60-day period beginning on the 1st day after the completion of each fiscal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor prepared in accordance with requirements prescribed by the Secretary, and prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing. The Secretary shall approve an extension where the mortgagor demonstrates that failure to comply with this subparagraph is due to events beyond the control of the mortgagor.

"(K) At the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, failure to furnish monthly occupancy reports or failure to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage.

"(L) Failure to make promptly all payments due under the note and mortgage, including tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments.

"(M) Amending the articles of incorporation or bylaws, other than as permitted under the terms of the articles of incorporation as approved by the Secretary, without the prior written approval of the Secretary.

"(2) AMOUNT OF PENALTY.—A penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000 for a violation of any of the subparagraphs of paragraph (1).

"(d) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsections (b) and (c). These standards and procedures—

"(A) shall provide for the Secretary or other department official (such as the Assistant Secretary for Housing) to make the determination to impose a penalty;

"(B) shall provide for the imposition of a penalty only after the mortgagor has been given an opportunity for a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) Final orders.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) Factors in determining amount of penalty.—In determining the amount of a penalty under subsection (b) or (c), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the tenants, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) Reviewability of imposition of penalty.—The Secretary's determination or order imposing a penalty under subsection (b) or (c) shall not be subject to review, except as provided in subsection (e).

"(e) Judicial Review of Agency Determination.—

"(1) In general.—After exhausting all administrative remedies established by the Secretary under subsection (d)(1), a mortgagor against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (d)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(2) Objections not raised in hearing.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (d)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(3) Scope of review.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(4) Order to pay penalty.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(f) Action To Collect Penalty.—If a mortgagor fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (b) or (c), after the determination or order is no longer subject to review as provided by subsections (d)(1) and (e), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagor and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

12 USC 1701q-1 note.

"(g) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(h) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(i) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(j) DEPOSIT OF PENALTIES IN INSURANCE FUNDS.—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the fund established under section 201(j) of the Housing and Community Development Amendments of 1978.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to violations referred to in the amendment that occur on or after the effective date of this section.

(c) CONFORMING AMENDMENT.—Section 201(j)(2) of the Housing and Community Development Amendments of 1978 is amended—

12 USC 1715z-1a.

(1) by striking "and" before "(D)"; and

(2) by inserting before the period at the end the following: ", and (E) any amount received by the Secretary pursuant to section 537 of the National Housing Act and section 202a of the Housing Act of 1959".

SEC. 110. CIVIL MONEY PENALTIES AGAINST GNMA ISSUERS.

Loans.

(a) IN GENERAL.—Title III of the National Housing Act is amended by adding at the end the following new section:

"CIVIL MONEY PENALTIES AGAINST ISSUERS

"SEC. 317. (a) IN GENERAL.—

12 USC 1723i.

"(1) AUTHORITY.—Whenever an issuer or custodian approved under section 306(g) knowingly and materially violates any provisions of subsection (b), the Secretary of Housing and Urban Development may impose a civil money penalty on the issuer or the custodian in accordance with the provisions of this section The penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary imposes other administrative sanctions.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $5,000 for each violation, except that the maximum penalty for all violations by a particular issuer or custodian during any one-year period shall not exceed $1,000,000. Each violation of a provision of subsection (b)(1) shall constitute a separate violation with respect to each pool of mortgages. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

"(b) VIOLATIONS FOR WHICH A PENALTY MAY BE IMPOSED.—

"(1) VIOLATIONS.—The violations by an issuer or a custodian for which the Secretary may impose a civil money penalty under subsection (a) are the following:

"(A) Failure to make timely payments of principal and interest to holders of securities guaranteed under section 306(g).

"(B) Failure to segregate cash flow from pooled mortgages or to deposit either principal and interest funds or escrow funds into special accounts with a depository institution whose accounts are insured by the National Credit Union Administration or by the Federal Deposit Insurance Corporation through the Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations.

"(C) Use of escrow funds for any purpose other than that for which they were received.

"(D) Transfer of servicing for a pool of mortgages to an issuer not approved under this title, unless expressly permitted by statute, regulation, or contract approved by the Secretary.

"(E) Failure to maintain a minimum net worth in accordance with requirements prescribed by the Association;

"(F) Failure to promptly notify the Association in writing of any changes that materially affect the business status of an issuer.

"(G) Submission to the Association of false information in connection with any securities guaranteed, or mortgages pooled, under section 306(g).

"(H) Hiring, or retaining in employment, an officer, director, principal, or employee whose duties involve, directly or indirectly, programs administered by the Association while such person was under suspension or debarment by the Secretary.

"(I) Submission to the Association of a false certification either on its own behalf or on behalf of another person or entity.

"(J) Failure to comply with an agreement, certification, or condition of approval set forth on, or applicable to, the application for approval as an issuer of securities under section 306(g).

"(K) Violation of any provisions of this title or any implementing regulation, handbook, or participant letter issued under authority of this title.

"(2) NOTIFICATION TO ATTORNEY GENERAL.—Before taking action to impose a civil money penalty for a violation under paragraph (1)(G) or paragraph (1)(I), the Secretary shall inform the Attorney General of the United States.

"(c) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). The standards and procedures—

"(A) shall provide for the Secretary to make the determination to impose the penalty;

"(B) shall provide for the imposition of a penalty only after an issuer or a custodian has been given notice of, and opportunity for, a hearing on the record; and

"(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of a notice of opportunity for hearing, the imposition of a penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine by regulations.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (d).

"(d) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (c)(1), an issuer or a custodian against which the Secretary has imposed a civil money penalty under subsection (a) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice provided under subsection (c)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(2) OBJECTIONS NOT RAISED IN HEARING.—A court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (c)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence, which was not presented at such hearing, is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(3) SCOPE OF REVIEW.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(4) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, the court shall have the power in any such review to order payment of the penalty imposed by the Secretary.

"(e) ACTION TO COLLECT PENALTY.—If any issuer or custodian fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the issuer or custodian and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(f) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(g) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(h) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(i) DEPOSIT OF PENALTIES.—The Secretary shall deposit all civil money penalties collected under this section into moneys of the Association pursuant to section 307.".

12 USC 1723i note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to—

(1) violations referred to in the amendment that occur on or after the effective date of this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation referred to in the amendment that occurs on or after such date.

SEC. 111. CIVIL MONEY PENALTIES FOR VIOLATIONS OF INTERSTATE LAND SALES FULL DISCLOSURE ACT.

(a) IN GENERAL.—The Interstate Land Sales Full Disclosure Act is amended by inserting after section 1418 the following new section:

"CIVIL MONEY PENALTIES

15 USC 1717a.

"SEC. 1418a. (a) IN GENERAL.—

"(1) AUTHORITY.—Whenever any person knowingly and materially violates any of the provisions of this title or any rule, regulation, or order issued under this title, the Secretary may impose a civil money penalty on such person in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed $1,000 for each violation, except that the maximum penalty for all violations by a particular person during any 1-year period shall not exceed $1,000,000. Each violation of this title, or any rule, regulation, or order issued under this title, shall constitute a separate violation with respect to each sale or lease or offer to sell or lease. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

"(b) AGENCY PROCEDURES.—

"(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a). The standards and procedures—

"(A) shall provide for the imposition of a penalty only after a person has been given an opportunity for a hearing on the record; and

"(B) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

"(2) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under subsection (a), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) REVIEWABILITY OF IMPOSITION OF PENALTY.—The Secretary's determination or order imposing a penalty under subsection (a) shall not be subject to review, except as provided in subsection (c).

"(c) JUDICIAL REVIEW OF AGENCY DETERMINATION.—

"(1) IN GENERAL.—After exhausting all administrative remedies established by the Secretary under subsection (b)(1), a person aggrieved by a final order of the Secretary assessing a penalty under this section may seek judicial review pursuant to section 1411.

"(2) ORDER TO PAY PENALTY.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(d) ACTION TO COLLECT PENALTY.—If any person fails to comply with the determination or order of the Secretary imposing a civil money penalty under subsection (a), after the determination or order is no longer subject to review as provided by subsections (b) and (c), the Secretary may request the Attorney General of the United States to bring an action in any appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(e) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

"(f) DEFINITION OF KNOWINGLY.—The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(g) REGULATIONS.—The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

"(h) USE OF PENALTIES FOR ADMINISTRATION.—Civil money penalties collected under this section shall be paid to the Secretary and, upon approval in an appropriation Act, may be used by the Secretary to cover all or part of the cost of rendering services under this title.".

15 USC 1717a note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to—

(1) violations referred to in the amendment that occur on or after the effective date of this section; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of violation referred to in the amendment that occurs on or after such date.

SEC. 112. REGISTRATION OF CONSULTANTS.

The Department of Housing and Urban Development Act, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"REGISTRATION OF CONSULTANTS

42 USC 3537b.

"SEC. 13. (a) RECORD OF EXPENDITURES.—

"(1) REQUIREMENT TO MAINTAIN.—Each person who makes an expenditure to influence the decision of any officer or employee of the Department, through communication with such officer or employee, with respect to—

"(A) the award of any financial assistance within the jurisdiction of the Department, or

"(B) any management action involving a change in the terms and conditions or status of financial assistance awarded to any person,

shall keep records, as required by this section. The preceding sentence shall not apply to expenditures incurred in complying with conditions, requirements, or procedures imposed by the Secretary in connection with any financial assistance.

"(2) COVERED INFORMATION.—Each person referred to in paragraph (1) shall keep a detailed and exact account of—

"(A) all such expenditures made by or on behalf of such person; and

"(B) the name and address of every person to whom any such expenditure is made and the date of the expenditure.

"(3) MAINTENANCE OF RECORDS.—Each person making such an expenditure shall obtain a bill, stating the particulars, for every such expenditure, and shall retain all records required by this section for not less than the 2-year period beginning on the date of the filing of the report required by subsection (b), which shall include the information under paragraph (2).

"(4) LIMITATION OF FEES.—Any person engaged for pay or other consideration for the purpose of attempting to influence any award or allocation of financial assistance within the jurisdiction of the Department shall not seek or receive any fee that is—

"(A) based on the amount of assistance or number of units that may be provided by the Secretary, or

"(B) contingent on an award of assistance by the Secretary, except where—

"(i) services are provided to a nonprofit entity applying for such award or allocation of assistance; and

"(ii) professional services related to a project are donated in whole or in part to a nonprofit entity in the event assistance for a project is not awarded.

"(b) REPORTS OF EXPENDITURES FILED WITH THE SECRETARY.—

"(1) REPORT.—Each person making an expenditure for the purposes designated in subsection (a)(1) shall file with the Secretary, between the 1st and 10th day of each calendar year, a report specifying the total expenditures made by or on behalf of such person during the year and the information required by subsection (a)(2)(B).

"(2) REGULAR EMPLOYEES.—The requirements of this subsection shall not apply in the case of a payment of reasonable compensation made to any regularly employed officer or employee of the person who requests or receives assistance within the jurisdiction of the Department, or who is involved in any management action with respect to such assistance.

"(3) MINIMUM DOLLAR REQUIREMENTS.—The requirements of this subsection shall not apply to any person whose total expenditures for purposes described in subparagraphs (A) and (B) of subsection (a)(1) are less than $10,000 in any calendar year.

"(4) FILING AND RETENTION.—A report required by this subsection—

"(A) shall be considered properly filed when deposited in a post office within the prescribed time, stamped, registered, and addressed to the Secretary, but if the Secretary does not receive the report, the person shall promptly file a duplicate report when the Secretary notifies the person that the original report has not been received; and

Public information.

"(B) shall be retained by the Secretary for the 2-year period beginning on the date of filing, shall constitute part of the public records of the Department, and shall be open to public inspection.

Federal Register, publication.

"(5) PUBLICATION OF INFORMATION.—The Secretary shall compile all expenditure information as soon as practicable after the close of the calendar year with respect to which the information is filed and shall publish it as a notice in the Federal Register.

"(c) REGISTRATION BY PERSONS ATTEMPTING TO INFLUENCE DEPARTMENT DECISIONS.—

"(1) REQUIREMENT AND INFORMATION.—Each person receiving payment or any consideration for the purpose described in subsection (a)(1), shall, not later than 14 days after being retained for such purpose, register with the Secretary. The registration shall be in writing and shall include the name and business address of the registrant, the name and address of the registrant's employer and of any person or entity in whose interest the registrant appears or works, and a statement of whether the registrant has been employed by the Federal Government during the 2-year period ending on the date of the registration and in what capacity. Each registrant shall, between the 1st and 10th day of each calendar year, file with the

Reports.

Secretary a detailed report of all money received and expended by the registrant during the preceding year in carrying out the work, including information as to whom money was paid, and for what purposes.

"(2) MINIMUM DOLLAR REQUIREMENT.—The requirements of the last sentence of paragraph (1) shall not apply with respect to any calendar year to any person whose total compensation for attempting to influence a decision with respect to assistance within the jurisdiction of the Department or a management action with respect to such assistance is less than $10,000 in such year.

Federal Register, publication.

"(3) PUBLICATION OF INFORMATION.—The Secretary shall compile all registration information as soon as practicable after the close of the calendar year with respect to which the information is filed and shall publish it annually as a notice in the Federal Register.

"(d) CIVIL MONEY PENALTIES.—

"(1) AUTHORITY.—Whenever any person knowingly fails to file a report required under subsection (b), or any person knowingly fails to register and file a report required under subsection (c), the Secretary may impose a civil money penalty on that person in accordance with the provisions of this subsection. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

"(2) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, shall not exceed the greater of—

"(A) $10,000 for each violation; or

"(B) the total amount received for any services performed for any applicant to which the violation under paragraph (1) relates.

"(3) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this subsection, consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before enactment of this section), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

"(4) AGENCY PROCEDURES.—

"(A) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under paragraph (1). These standards and procedures shall—

"(i) provide for the Secretary or other department official to make the determination to impose the penalty or for use of an administrative entity to make the determination;

"(ii) provide for the imposition of a penalty only after the person has been given an opportunity for a hearing on the record; and

"(iii) provide for review of any determination or order, or interlocutory ruling, arising from a hearing.

"(B) FINAL ORDERS.—If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

"(C) Reviewability of imposition of penalty.—The Secretary's determination or order imposing a penalty under paragraph (1) shall not be subject to review, except as provided in paragraph (5).

"(5) Judicial review of agency determination.—

"(A) In general.—After exhausting all administrative remedies established by the Secretary under paragraph (4)(A), a person against whom the Secretary has imposed a civil money penalty under paragraph (1) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under paragraph (4)(A)(i) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

"(B) Objections not raised in hearing.—The court shall not consider any objection that was not raised in the hearing conducted pursuant to paragraph (4)(A) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at the hearing is material and that there are reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

"(C) Scope of review.—The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5, United States Code.

"(D) Order to pay penalty.—Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

"(6) Action to collect penalty.—If any person fails to comply with the Secretary's determination or order imposing a civil money penalty under paragraph (1), after the determination or order is no longer subject to review as provided by paragraphs (4)(A) and (5), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the person and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this paragraph, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

"(7) Settlement by secretary.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this subsection.

"(8) **Deposit of penalties.**—The Secretary shall deposit all civil money penalties collected under this subsection into miscellaneous receipts of the Treasury.

"(e) **Prohibition on consulting activities.**—

"(1) **In general.**—Whoever is fined under subsection (d) may be prohibited, for the 3-year period beginning on the date of the imposition of the fine, from receiving any payment or thing of value for performing any services (with respect to any application for financial assistance within the jurisdiction of the Department) for any applicant.

"(2) **Criminal penalty.**—Whoever violates the prohibition under paragraph (1) shall, upon conviction, be guilty of a felony and shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(f) **Definitions.**—For purposes of this section:

"(1) The term 'person' means an individual (including a consultant, lobbyist, or lawyer), corporation, company, association, authority, firm, partnership, society, State, local government, or any other organization or group of people.

"(2) The term 'expenditure' includes a payment, distribution, loan, advance, deposit, gift of money, or anything else of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

"(3) The term 'financial assistance within the jurisdiction of the Department' includes any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

"(4) The term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

"(5) The term 'reasonable compensation' means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to or not furnished in cooperation with the Department.

"(6) The term 'regularly employed' means, with respect to an officer or employee of a person requesting or receiving assistance within the jurisdiction of the Department or who is involved in a management action with respect to such assistance, an officer or employee who is employed by such person for at least 130 working days within one year immediately before the date of the submission that initiates departmental consideration of such person for receipt of such assistance, or the date of initiation of any management action.

"(g) **Regulations.**—The Secretary shall issue any regulations necessary to implement this section.

"(h) **Effective Date.**—This section shall take effect on the date specified in regulations implementing this section that are issued by the Secretary after notice and public comment. The regulations shall establish standards that include determinations of what types of activities constitute influence with respect to the decisions of the Department described in subsection (a)(1) (A) and (B).".

Subtitle B—Management Reform

SEC. 121. ESTABLISHMENT OF HUD CHIEF FINANCIAL OFFICER.

Section 4 of the Department of Housing and Urban Development Act is amended by adding at the end the following new subsection: 42 USC 3533.

"(e) There shall be in the Department a Chief Financial Officer, designated by the Secretary, who shall—

"(1) serve as the principal advisor to the Secretary on financial management;

"(2) develop and maintain a financial management system for the Department (including accounting and related transaction systems, internal control systems, financial reporting systems, credit, and cash and debt management);

"(3) supervise and coordinate all financial management activities and operations of the Department;

"(4) assist in the financial execution of the Department's budget in relation to actual expenditures and prepare timely performance reports for senior managers; and Reports.

"(5) issue such policies and directives as may be necessary to carry out this section.".

SEC. 122. ESTABLISHMENT OF FHA COMPTROLLER.

Section 4 of the Department of Housing and Urban Development Act, as amended by section 121, is further amended by adding at the end the following new subsection:

"(f) There shall be in the Department a Federal Housing Administration Comptroller, designated by the Secretary, who shall be responsible for overseeing the financial operations of the Federal Housing Administration.".

SEC. 123. EXPEDITING RULEMAKING.

Section 7(o) of the Department of Housing and Urban Development Act is amended— 42 USC 3535.

(1) in paragraph (2)(A)—

(A) by striking "first period of 15 calendar days of continuous session of Congress which occurs" in the first sentence and inserting "15-calendar day period beginning on the day"; and

(B) by striking "of continuous session" in the second sentence;

(2) in paragraph (2)(B), by striking "of continuous session of Congress";

(3) in paragraph (3)—

(A) by striking "first period of 30 calendar days of continuous session of Congress which occurs" in the first sentence and inserting "expiration of the 30-calendar day period beginning on the day"; and

(B) by striking all that follows the period at the end of the first sentence and inserting the following: "Any regulation implementing any provision of the Department of Housing and Urban Development Reform Act of 1989 that authorizes the imposition of a civil money penalty may not become effective until after the expiration of a public comment period of not less than 60 days."; and

(4) by striking paragraphs (5) and (6).

SEC. 124. FUNDING FOR PROGRAM EVALUATION AND MONITORING.

Section 7 of the Department of Housing and Urban Development Act, as amended by section 106 of this Act, is further amended by adding at the end the following new subsection:

"(r)(1) For the programs listed in paragraph (2), amounts appropriated under this subsection shall be available to the Secretary for evaluating and monitoring of all such programs (including all aspects of the public housing and section 202 programs). The Secretary shall expend amounts made available under this subsection in accordance with the need and complexity of evaluating and monitoring each such program.

"(2) The programs subject to this subsection shall be the programs authorized under—

"(A) titles I and II of the United States Housing Act of 1937;

"(B) section 202 of the Housing Act of 1959;

"(C) section 106 of the Housing and Urban Development Act of 1968;

"(D) the Fair Housing Act;

"(E) title I and section 810 of the Housing and Community Development Act of 1974;

"(F) section 201 of the Housing and Community Development Amendments of 1978;

"(G) the Congregate Housing Services Act of 1978;

"(H) section 222 of the Housing and Urban-Rural Recovery Act of 1983;

"(I) section 561 of the Housing and Community Development Act of 1987; and

"(J) title IV of the Stewart B. McKinney Homeless Assistance Act.

"(3) In conducting evaluations and monitoring pursuant to the authority under this subsection, the Secretary shall determine any need for additional staff and funding relating to evaluating and monitoring the programs under paragraph (2).

Grants.
Contracts.

"(4)(A) The Secretary may provide for evaluation and monitoring under this subsection directly or by grants, contracts, or interagency agreements. Not more than 50 percent of the amounts made available under paragraph (1) may be used for grants, contracts, or interagency agreements.

"(B) Any amounts not used for grants, contracts, or interagency agreements under subparagraph (A) shall be used in a manner that increases and strengthens the ability of the Department to monitor and evaluate the programs under paragraph (2) through officers and employees of the Department.

Reports.

"(5) Not later than December 31 of each year, the Secretary shall submit to the Congress a report regarding the use of amounts made available under this subsection during the fiscal year ending on September 30 of that year, including an analysis of the ability of the Department to monitor and evaluate the programs under paragraph (2) and a statement of any needs determined under paragraph (3).

Appropriation authorization.

"(6) There is authorized to be appropriated to carry out this subsection $25,000,000 for fiscal year 1991. Such amounts shall remain available until expended.".

Loans.

SEC. 125. REFINANCING OF SECTION 235 MORTGAGES.

12 USC 1715z.

(a) In General.—Section 235(r) of the National Housing Act is amended to read as follows:

"(r)(1) The Secretary is authorized, upon application of a mortgagee, to insure under this subsection a mortgage the proceeds of which are used to refinance a mortgage insured under this section.

"(2) To be eligible for insurance under this subsection, a mortgage must be executed by a mortgagor meeting the requirements of paragraph (3) and shall— Insurance.

"(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease—

"(i) for not less than 99 years which is renewable; or

"(ii) having a period of not less than 10 years to run beyond the maturity date of the mortgage;

"(B) have been made to, and held by, a mortgagee approved by the Secretary;

"(C) be in an amount not exceeding the outstanding principal balance, including any unpaid interest, due on the mortgage being refinanced;

"(D) have a maturity not exceeding the unexpired term of the mortgage being refinanced;

"(E) bear an interest rate not exceeding such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; to the extent that the amounts described in paragraphs (4) (A) and (B) are not otherwise paid by the Secretary, the foregoing interest rate may be increased, in the discretion of the Secretary, to compensate the mortgagee for its payment to, or on behalf of, the mortgagor of such amounts; and

"(F) meet the criteria for refinancing as determined by the Secretary.

"(3) Notwithstanding the provisions of subsection (h)(2), assistance payments in connection with mortgages insured under paragraph (2) shall be made only with respect to a family who is eligible for, and receiving assistance payments with respect to, the insured mortgage being refinanced.

"(4) The Secretary is authorized and, to the extent provided in appropriation Acts, may pay to the mortgagor (directly, through the mortgagee, or otherwise)—

"(A) an amount, as approved by the Secretary, as an incentive to the mortgagor to refinance a mortgage insured under this section; and

"(B) an amount as approved by the Secretary for costs incurred in connection with the refinancing, including but not limited to discounts, loan origination fees, and closing costs.

"(5) Amounts of budget authority required for assistance payments contracts with respect to mortgages insured under this subsection shall be derived from amounts recaptured from assistance payments contracts relating to mortgages that are being refinanced. For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection shall not be construed as 'unused'. Contracts.

"(6) The Secretary is authorized to take any actions to identify and communicate with any mortgagor of a mortgage insured under this section to implement the refinancing of such mortgages with insurance under this subsection. The Secretary may take such actions directly, or under contract. Notwithstanding the restriction Insurance.

of section 552a(b) of title 5 of the United States Code, upon the request of an approved mortgagee, the Secretary may disclose to such mortgagee the name and address of any mortgagor of a mortgage insured under this section that meets the criteria for refinancing, pursuant to paragraph (2)(F), and the unpaid principal balance and interest rate on such mortgage.

Federal register, publication.

"(7) The Secretary shall implement the provisions of this subsection by a notice published in the Federal Register.".

12 USC 1715z. Contracts.

(b) EXCESS RECAPTURED AMOUNTS.—Section 235(c)(3)(C) of the National Housing Act is amended by inserting after the period at the end the following new sentence: "Notwithstanding the preceding sentence, any amounts of budget authority or contract authority recaptured from assistance payments contracts relating to mortgages that are being refinanced that are not required for assistance payments contracts relating to mortgages insured under this subsection, shall be rescinded.".

(c) CONFORMING AMENDMENTS.—Section 235 of the National Housing Act is amended—

(1) in subsection (c)(1), by inserting ", other than a contract in connection with a refinancing under subsection (r)," in the second sentence after "any new contract";

(2) in subsection (c)(3)(A), by inserting "(except to the extent provided in subsection (r) for mortgages insured under such subsection)" in the second sentence after "refinanced,";

(3) in subsection (e), by striking "or (j)(7)," and inserting "(j)(7), or (r),";

(4) in subsection (h)(1)—

(A) by inserting "(other than obligations in connection with mortgages insured under subsection (r))" in the third sentence after "October 1, 1983";

(B) by inserting "(except under subsection (r))" in the sixth sentence after "under this section" the first place it appears; and

(C) by inserting "(other than a contract in connection with a mortgage insured under subsection (r))" in the seventh sentence after "under this section";

Contracts.

(5) in subsection (h)(3), by inserting after the period at the end the following: "The preceding sentence shall not apply to contracts in connection with mortgages insured under subsection (r).";

(6) in subsection (m), by inserting "(except a mortgage insured under subsection (r))" after "No mortgage"; and

(7) in subsection (n), by inserting "or to a mortgage insured under subsection (r)" before the period at the end.

12 USC 1715z note.

(d) SAVINGS PROVISION.—Notwithstanding the termination of the program under section 235 pursuant to section 401(d) of the Housing and Community Development Act of 1987, the Secretary of Housing and Urban Development shall have authority to insure mortgages under section 235(r), to make assistance payments with respect to such insured mortgages, and to make any other payment or take any other action related to the refinancing of mortgages insured under section 235.

SEC. 126. SANCTIONS FOR IMPROPER CONVEYANCES UNDER URBAN HOMESTEAD PROGRAMS.

(a) IN GENERAL.—Section 810 of the Housing and Community Development Act of 1974 is amended by adding at the end the following new subsection:

12 USC 1706e.

"(m) If the Secretary determines that any property transferred for use under an urban homestead program under this section has been conveyed or used under the program in a manner contrary to the provisions of this section, the Secretary may take action as the Secretary considers appropriate, including taking any of the following actions:

State and local governments.

"(1) The Secretary may impose a civil penalty on the unit of general local government or the State or the qualified community organization or public agency designated by a unit of general local government, or the transferee of such entity, as appropriate, in an amount not less than any profit realized with respect to the conveyance or use of the property contrary to the provisions of this section.

"(2) The Secretary may revoke the conveyance of the property pursuant to subsection (b)(4) and revoke the transfer of the property to the unit of general local government or State or the qualified community organization or public agency designated by a unit of general local government, except that the Secretary may not revoke the conveyance of any property under this paragraph if the Secretary determines that the conveyance was made to an individual or family who has substantially complied with the requirements of this section for participation in an urban homestead program and who has no knowledge of the conveyance or use of the property contrary to the provisions of this section. If any tenants of any property for which a conveyance is revoked under this paragraph would be displaced by such revocation and the Secretary determines that the tenants are not responsible for or involved in the actions for which the revocation has been imposed, the Secretary shall, if practicable, take actions that would allow the tenants to remain on the property and maintain the property under an urban homestead program.".

(b) CONFORMING AMENDMENT.—Section 810(b)(4) of the Housing and Community Development Act of 1974 is amended by inserting before the semicolon at the end the following: "or by the Secretary under subsection (m)(2)".

(c) APPLICABILITY.—The amendments made by this section shall apply to any property transferred for use in an urban homestead program under section 810 of the Housing and Community Development Act of 1974 after January 1, 1981.

12 USC 1706e note.

SEC. 127. REFORM OF MODERATE REHABILITATION PROGRAM.

Section 8(e)(2) of the United States Housing Act of 1937 is amended—

42 USC 1437f.

(1) by striking the period at the end of the first sentence and inserting the following: ", and which shall involve a minimum expenditure of $3,000 for a unit, including its prorated share of work to be accomplished on common areas or systems.";

(2) by inserting after the period at the end the following new sentence: "In order to maximize the availability of low-income housing, in providing assistance under this paragraph, the Secretary shall include in any calculation or determination regard-

ing the amount of the assistance to be made available the extent to which any proceeds are available from any tax credits provided under section 42 of the Internal Revenue Code of 1986 (or from any syndication of such credits) with respect to the housing."; and

(3) by inserting after the period at the end (as inserted by paragraph (2)) the following: "For each fiscal year, the Secretary may not provide assistance pursuant to this paragraph to any project for rehabilitation of more than 100 units. Assistance pursuant to this paragraph shall be allocated according to the formula established pursuant to section 213(d) of the Housing and Community Development Act of 1974, and awarded pursuant to a competition under such section. The Secretary shall maintain a single listing of any assistance provided pursuant to this paragraph, which shall include a statement identifying the owner and location of the project to which assistance was made, the amount of the assistance, and the number of units assisted.".

Subtitle C—Federal Housing Administration Reforms

SEC. 131. ANNUAL AUDITED FINANCIAL STATEMENTS.

Title V of the National Housing Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new section:

"ANNUAL AUDITED FINANCIAL STATEMENTS

Public information. 12 USC 1735f-16.

"SEC. 538. With respect to fiscal year 1989 and for every fiscal year thereafter, the Secretary shall make available to the public a financial statement of the insurance funds established under this Act that will present their financial condition on a cash and accrual basis, consistent with generally accepted accounting principles. Each financial statement shall be audited by an independent accounting firm selected by the Secretary and the results of such audit shall be made available to the public.".

Loans. Insurance.

SEC. 132. CREDIT REVIEWS OF PERSONS ACQUIRING MORTGAGED PROPERTIES UNDER SINGLE FAMILY PROGRAM FOR LIFE OF MORTGAGE.

12 USC 1709.

(a) IN GENERAL.—Section 203(r) of the National Housing Act is amended—

(1) by amending the first sentence to read as follows: "The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this title."; and

(2) by amending paragraphs (2) and (3) to read as follows:

"(2) requiring that at least one person acquiring ownership of a one- to four-family residential property encumbered by a mortgage insured under this title be determined to be creditworthy under standards prescribed by the Secretary, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement); and

"(3) in any case where personal liability under a mortgage is assumed, requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability.".

(b) Applicability.—The amendments made by subsection (a) shall apply only with respect to— 12 USC 1709 note.

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program (24 C.F.R. 200.163), if the approved underwriter of the mortgage signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

(c) Transition Provisions.—Any mortgage insurance provided under title II of the National Housing Act as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(r) of the National Housing Act, as such section existed immediately before such date. 12 USC 1709 note.

SEC. 133. REPEAL OF TITLE X LAND DEVELOPMENT PROGRAM.

(a) Repeal.—Title X of the National Housing Act is hereby repealed. 12 USC 1749aa-1749*ll*.

(b) Applicability.—On or after the date of enactment of this Act, no mortgage may be insured under title X, as such title existed immediately before such date, except pursuant to a commitment to insure made before such date. 12 USC 1749aa note.

(c) Savings Provision.—Any contract of insurance entered into under title X before the date of enactment of this Act shall be governed by the provisions of such title as such title existed immediately before such date. Contracts. Insurance. 12 USC 1749aa note.

(d) Conforming Amendments.—The National Housing Act is amended—

(1) in section 1, by striking "X," each place it appears; 12 USC 1702.

(2) in section 212(a), by striking the seventh sentence; 12 USC 1715c.

(3) in section 512, by striking "X," in the first sentence; 12 USC 1731a.

(4) in section 522, by inserting ", as such title existed immediately before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989," after "title X of this Act"; and 12 USC 1735f.

(5) in section 530, by striking "X,". 12 USC 1735f-8.

SEC. 134. CIVIL MONEY PENALTIES FOR IMPROPER DEALER AND LOAN BROKER PARTICIPATION IN ORIGINATION OF PROPERTY IMPROVEMENT LOANS.

(a) In General.—Section 2(b) of the National Housing Act is amended by adding at the end the following new paragraph: 12 USC 1703.

"(7) With respect to the financing of alterations, repairs, and improvements to existing structures or the building of new structures as authorized under clause (i) of the first sentence of section 2(a), any loan broker (as defined by the Secretary) or any other party having a financial interest in the making of such a loan or advance of credit or in providing assistance to the borrower in preparing the loan application or otherwise assisting the borrower in obtaining the loan or advance of credit who knowingly (as defined in section 536(g) of this Act) submits to any such financial institution or to the Secretary false information shall be subject to a civil money penalty in the amount and manner provided under section 536 with respect to mortgagees and lenders under this Act.".

12 USC 1703 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to—

(1) violations referred to in the amendment that occur on or after the date of the enactment of this Act; and

(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation referred to in the amendment that occurs on or after such date.

Loans.

SEC. 135. NOTIFICATION REGARDING SUSPENDED MORTGAGEES.

12 USC 1709.

Section 203 of the National Housing Act is amended by adding at the end the following new subsection:

"(s) Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this title, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to—

"(1) the Secretary of Veterans Affairs;

"(2) the chief executive officer of the Federal National Mortgage Association;

"(3) the chief executive officer of the Federal Home Loan Mortgage Corporation;

"(4) the Administrator of the Farmers Home Administration;

"(5) if the mortgagee is a national bank or District bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;

"(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System;

"(7) if the mortgagee is a State bank that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation; and

"(8) if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision.".

SEC. 136. FHA FORECLOSED PROPERTIES.

12 USC 1710.

(a) MAINTENANCE.—Section 204(a) of the National Housing Act is amended by inserting after the period at the end of the third sentence the following new sentence: "As a condition of the receipt of such benefits, the mortgagee shall maintain or assure the maintenance of the mortgaged property (in such manner as the Secretary shall by regulation provide) during the period beginning on the taking of the possession or other acquisition of the mortgaged property by the mortgagee and ending on conveyance to the Secretary or other disposition of the mortgaged property in accordance with this section, and funds expended by the mortgagee in meeting such obligation shall be included, to the extent provided in this subsection or in subsection (k), in debentures or other insurance payment pursuant to this section.".

12 USC 1710.

Regulations.

(b) Disposition of Properties on Credit Terms.—Section 204(g) of the National Housing Act is amended by inserting after the period at the end of the first sentence the following new sentence: "The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program.".

SEC. 137. REPORT REGARDING PROVIDING FORECLOSED PROPERTIES TO 1989 DISASTER VICTIMS.

(a) HUD.—

(1) Study.—The Secretary of Housing and Urban Development shall conduct a study regarding the feasibility of making available, to low-income persons whose homes in areas declared by the President as disaster areas as a result of hurricane Hugo or the Loma Prieta earthquake during 1989 were destroyed by such disasters, any available properties (including multifamily properties) owned by the Secretary.

(2) Report.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, a report regarding the results and conclusions of the study under paragraph (1), together with any recommendations for legislation regarding providing such property.

(b) Farmers Home Administration.—The Secretary of Agriculture shall conduct a study regarding the feasibility of making available, as provided in subsection (a)(1), any available properties (including multifamily properties) owned by the Secretary through the Farmers Home Administration and shall submit a report regarding such study as provided in subsection (a)(2).

(c) Consultation.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall consult in conducting the studies under subsections (a) and (b) and may submit a single report meeting the requirements of subsections (a)(2) and (b).

SEC. 138. REPORT REGARDING ACTIONS TO IMPROVE DIRECT ENDORSEMENT PROGRAM.

(a) In General.—With respect to the direct endorsement program in connection with single-family mortgage insurance under title II of the National Housing Act, the Secretary shall submit to the Congress a report describing any actions the Secretary determines are necessary to take, to—

(1) improve monitoring and supervision under the program;

(2) reduce defaults under the program; and

(3) decrease the potential for fraud under the program.

(b) Time of Submission.—The Secretary shall submit the report under subsection (a) to the Congress not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 139. CO-INSURANCE AMENDMENTS.

12 USC 1715z-9.

(a) In General.—Section 244 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(i) The Secretary shall, by January 15 and July 15 of each year (1) review the adequacy of capital and other requirements for mortgagees under this section, (2) assess the compliance by mortgagees with such requirements, and (3) make such adjustment to such requirements as the Secretary, after providing opportunity for hearing, determines to be appropriate to improve the long-term financial soundness of the Federal Housing Administration funds. Such requirements shall include the minimum capital or net worth of mortgagees; the ratio that mortgagees shall maintain between the mortgagee's capital and the volume of mortgages co-insured by such mortgagee; and such other requirements as the Secretary determines to be appropriate to ensure the long-term financial soundness of the Federal Housing Administration funds. The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the review and assessment under the previous sentence, and an explanation of the Secretary's reasons for making any adjustment in requirements authorized under this section.".

Reports.

(b) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress not later than April 1, 1990, a report on the disposition of coinsured multifamily housing projects held by the Government National Mortgage Association. The report shall include a description of the guidelines governing the disposition of such properties, particularly as such guidelines relate to the objectives of—

(1) minimizing losses to the Federal Government;

(2) preserving the projects in decent, safe, and sanitary condition; and

(3) protecting lower-income tenants residing in such projects.

The report shall also describe the status of such multifamily housing projects, including the name, address, and size of each project, and the date and conditions of any foreclosure sale.

SEC. 140. FHA MANAGEMENT.

42 USC 3533.

Section 4 of the Department of Housing and Urban Development Act is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(2) by redesignating the second sentence in subsection (a) as subsection (b) and adding at the end thereof the following: "The Secretary shall ensure, to the extent practicable, that managers of Federal Housing Administration programs, at each level of the Department, shall be accountable for program operation, risk management, management of cash and other Federal assets, and program financing related to activities over which such managers have responsibility.".

SEC. 141. CONTRACTING FOR FINANCIAL MANAGEMENT SUPPORT.

Business and industry.
42 USC 3535.

Section 7(e) of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following: "The Secretary is authorized to enter into contracts with private companies for the provision of such managerial support to the Federal Housing Administration as the Secretary determines to be appropriate, including but not limited to the management of insurance risk and the improvement of the delivery of mortgage insurance.".

SEC. 142. FHA OPERATIONS.

12 USC 1708.

Section 202 of the National Housing Act is amended by—

(1) striking the heading "MUTUAL MORTGAGE INSURANCE FUND" and inserting "FEDERAL HOUSING ADMINISTRATION OPERATIONS";

(2) striking "SEC. 202." and inserting: "SEC. 202. (a) MUTUAL MORTGAGE INSURANCE FUND.—"; and

(3) adding at the end thereof the following new subsections:

"(b) ADVISORY BOARD.—There is created a Federal Housing Administration Advisory Board ("Board") that shall review operation of the Federal Housing Administration, including the activities of the Mortgagee Review Board, and shall provide advice to the Federal Housing Commissioner with respect to the formulation of general policies of the Federal Housing Administration and such other matters as the Federal Housing Commissioner may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act.

"(1) The Advisory Board shall be composed of 15 members to be appointed from among individuals who have substantial expertise and broad experience in housing and mortgage lending of whom—

"(A) 9 shall be appointed by the Secretary;

"(B) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(C) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(2) Membership on the Advisory Board shall include—

"(A) not less than 4 persons with distinguished private sector careers in housing finance, lending, management, development or insurance;

"(B) not less than 4 persons with outstanding reputations as licensed actuaries, experts in actuarial science, or economics related to housing;

"(C) not less than 4 persons with backgrounds of leadership in representing the interests of housing consumers;

"(D) not less than 1 person with significant experience and a distinguished reputation for work in the enforcement, advocacy, or development of fair housing or civil rights legislation; and

"(E) not less than 1 person with a background of leadership representing rural housing interests.

"(3) Members of the Advisory Board shall be selected to ensure, to the greatest extent practicable, geographical representation or every region of the country.

"(4) Not more than 8 members of the Advisory Board may be from any one political party.

"(5) Membership of the Advisory Board shall not include any person who, during the previous 24-month period, was required to register with the Secretary under section 112(c) of the Department of Housing and Urban Development Reform Act of 1989 or employed a person for purposes that required such person to so register.

"(6) Of the members of the Advisory Board first appointed, 5 shall have terms of 1 year, and 5 shall have terms of 2 years.

Their successors and all other appointees shall have terms of 3 years.

"(7) The Advisory Board is empowered to confer with, request information of, and make recommendations to the Federal Housing Commissioner. The Commissioner shall promptly provide the Advisory Board with such information as the Board determines to be necessary to carry out its review of the activities and policies of the Federal Housing Administration.

Reports.

"(8) The Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the activities of the Federal Housing Administration, including the soundness of underwriting procedures, the adequacy of information systems, the appropriateness of staffing patterns, the effectiveness of the Mortgagee Review Board, and other matters related to the Federal Housing Administration's ability to serve the nation's homebuyers and renters. Such report shall contain the Board's recommendations for improvement and include any minority views.

District of Columbia.

"(9) The Board shall meet in Washington, D.C., not less than twice annually, or more frequently if requested by the Federal Housing Commissioner or a majority of the members. The Board shall elect a chair, vice-chair and secretary and adopt methods of procedure. The Board may establish committees and subcommittees as needed.

"(10) Subject to the provisions of Section 7 of the Federal Advisory Committee Act, all members of the Board may be compensated and shall be entitled to reimbursement from the Department for traveling expenses incurred in attendance at meetings of the Board.

"(c) Mortgagee Review Board.—

"(1) Establishment.—There is established within the Federal Housing Administration the Mortgagee Review Board ("Board"). The Board is empowered to initiate the issuance of a letter of reprimand, the probation, suspension or withdrawal of any mortgagee found to be engaging in activities in violation of Federal Housing Administration requirements or the nondiscrimination requirements of the Equal Credit Opportunity Act, the Fair Housing Act, or Executive Order 11063.

"(2) Composition.—The Board shall consist of—

"(A) the Assistant Secretary of Housing/Federal Housing Commissioner;

"(B) the General Counsel of the Department;

"(C) the President of the Government National Mortgage Association;

"(D) the Assistant Secretary for Administration;

"(E) the Assistant Secretary for Fair Housing Enforcement (in cases involving violations of nondiscrimination requirements); and

"(F) the Chief Financial Officer of the Department;

or their designees.

"(3) Actions authorized.—When any report, audit, investigation, or other information before the Board discloses that a basis for an administrative action against a mortgagee exists, the Board shall take one of the following administrative actions:

"(A) Letter of reprimand.—The Board may issue a letter of reprimand only once to a mortgagee without taking action under subparagraphs (B), (C), or (D) of this section. A letter of reprimand shall explain the violation and describe actions the mortgagee should take to correct the violation.

"(B) PROBATION.—The Board may place a mortgagee on probation for a specified period of time not to exceed 6 months for the purpose of evaluating the mortgagee's compliance with Federal Housing Administration requirements, the Equal Credit Opportunity Act, the Fair Housing Act, Executive Order 11063, or orders of the Board. During the probation period, the Board may impose reasonable additional requirements on a mortgagee including supervision of the mortgagee's activities by the Federal Housing Administration, periodic reporting to the Federal Housing Commissioner, or submission to Federal Housing Administration audits of internal financial statements, audits by an independent certified public accountant or other audits.

"(C) SUSPENSION.—The Board may issue an order suspending a mortgagee's approval for doing business with the Federal Housing Administration if there exists adequate evidence of a violation or violations and continuation of the mortgagee's approval, pending or at the completion of any audit, investigation, or other review, or such administrative or other legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. A suspension shall last for not less than 6 months. During the period of suspension, the Federal Housing Administration shall not commit to insure any mortgage originated by the suspended mortgagee.

"(D) WITHDRAWAL.—The Board may issue an order withdrawing a mortgagee if the Board has made a determination of a serious violation or repeated violations by the mortgagee. The Board shall determine the terms of such withdrawal, but the term shall be not less than 1 year. Where the Board has determined that the violation is egregious or willful, the withdrawal shall be permanent.

"(E) SETTLEMENTS.—The Board may at any time enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for an action. Agreements may include provisions such as—

"(i) cessation of any violation;

"(ii) correction or mitigation of the effects of any violation;

"(iii) repayment of any sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, by a seller or by the Federal Housing Administration;

"(iv) actions to collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party;

"(v) indemnification of the Federal Housing Administration for mortgage insurance claims on mortgages originated in violation of Federal Housing Administration requirements;

"(vi) modification of the length of the penalty imposed; or

"(vii) implementation of other corrective measures acceptable to the Secretary.

Material failure to comply with the provisions of a settlement agreement shall be sufficient cause for suspension or withdrawal.

"(4) Notice and hearing.—

"(A) The Board shall issue a written notice to the mortgagee at least 30 days prior to taking any action against the mortgagee under subparagraph (B), (C), or (D) of paragraph (3). The notice shall state the specific violations which have been alleged, and shall direct the mortgagee to reply in writing to the Board within 30 days. If the mortgagee fails to reply during such period, the Board may make a determination without considering any comments of the mortgagee.

"(B) If the Board takes action against a mortgagee under subparagraph (B), (C), or (D) of paragraph (3), the Board shall promptly notify the mortgagee in writing of the nature, duration, and specific reasons for the action. If, within 30 days of receiving the notice, the mortgagee requests a hearing, the Board shall hold a hearing on the record regarding the violations within 30 days of receiving the request. If a mortgagee fails to request a hearing within such 30-day period, the right of the mortgagee to a hearing shall be considered waived.

Public information.

"(C) In any case in which the notification of the Board does not result in a hearing (including any settlement by the Board and a mortgagee), any information regarding the nature of the violation and the resolution of the action shall be available to the public.

Federal Register, publication.

"(5) Publication.—The Secretary shall establish and publish in the Federal Register a description of and the cause for administrative action against a mortgagee.

"(6) Cease-and-desist orders.—

"(A) Whenever the Secretary, upon request of the Mortgagee Review Board, determines that there is reasonable cause to believe that a mortgagee is violating, has violated, or is about to violate, a law, rule or regulation or any condition imposed in writing by the Secretary or the Board, and that such violation could result in significant cost to the Federal Government or the public, the Secretary may issue a temporary order requiring the mortgagee to cease and desist from any such violation and to take affirmative action to prevent such violation or a continuation of such violation pending completion of proceedings of the Board with respect to such violation. Such order shall include a notice of charges in respect thereof and shall become effective upon service to the mortgagee. Such order shall remain effective and enforceable for a period not to exceed 30 days pending the completion of proceedings of the Board with respect to such violation, unless such order is set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph. The Board shall provide the mortgagee an opportunity for a hearing on the record, as soon as practicable but not later than 20 days after the temporary cease-and-desist order has been served.

District of Columbia.

"(B) Within 10 days after the mortgagee has been served with a temporary cease-and-desist order, the mortgagee may apply to the United States district court for the judicial district in which the home office of the mortgagee is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting of suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the mortgagee, and such court shall have jurisdiction to issue such injunction.

"(C) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this paragraph, the Secretary may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the mortgagee is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

"(D) For purposes of this paragraph, the term 'mortgagee' means a mortgagee, a branch office or subsidiary of a mortgagee, or a director, officer, employee, agent, or other person participating in the conduct of the affairs of such mortgagee.

"(7) Report required.—The Board, in consultation with the Federal Housing Administration Advisory Board, shall annually recommend to the Secretary such amendments to statute or regulation as the Board determines to be appropriate to ensure the long term financial strength of the Federal Housing Administration fund and the adequate support for home mortgage credit.

"(d) Coordination of GNMA and FHA Withdrawal Action.—

"(1) Whenever the Federal Housing Administration or Government National Mortgage Association initiates proceedings that could lead to withdrawing the mortgagee from participating in the program, the initiating agency shall—

"(A) within 24 hours notify the other agency in writing of the action taken;

"(B) provide to the other agency the factual basis for the action taken; and

"(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

Federal Register, publication.

"(2) Within 60 days of receipt of a notification of action that could lead to withdrawal under subsection (1), the Federal Housing Administration or the Government National Mortgage Association shall—

"(A) conduct and complete its own investigation;

"(B) provide written notification to the other agency of its decision, including the factual basis for its decision; and

"(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

Federal Register, publication.

"(e) Appraisal Standards.—(1) The Secretary shall prescribe standards for the appraisal of all property to be insured by the Federal Housing Administration. Such appraisals shall be performed in accordance with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision. These standards shall require at a minimum—

"(A) that the appraisals of properties to be insured by the Federal Housing Administration shall be performed in accordance with generally accepted appraisal standards, such as the appraisal standards promulgated by the Appraisal Foundation a not-for-profit corporation established on November 30, 1987 under the laws of Illinois; and

"(B) that each appraisal be a written statement used in connection with a real estate transaction that is independently an impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

"(2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall include the Secretary or his designee.".

SEC. 143. ELIMINATION OF PRIVATE INVESTOR-OWNERS FROM SINGLE FAMILY MORTGAGE INSURANCE PROGRAM.

12 USC 1709.

State and local governments.

(a) RETENTION OF PUBLIC AND NONPROFIT INVESTOR OWNERS.—Section 203(g)(3) of the National Housing Act is amended—

(1) in subparagraph (A), by striking the semicolon at the end and inserting the following: ", or any other State or local government or an agency thereof;"; and

(2) in subparagraph (B), by striking the semicolon at the end and inserting the following: ", or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;".

(b) ELIMINATION OF PRIVATE INVESTOR-OWNERS.—Section 203(g) of the National Housing Act, as amended by subsection (a), is further amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

12 USC 1709 note.

(c) APPLICABILITY.—The amendments made by this section shall apply only with respect to—

(1) mortgages insured—

(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

12 USC 1709 note.

(d) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions amended by subsections (a) and (b) as such provisions existed immediately before such date.

TITLE II—HOUSING PRESERVATION

SEC. 201. LIMITATIONS ON PREPAYMENT.

Section 203(a) of the Emergency Low Income Housing Preservation Act of 1987 is amended by striking "upon the expiration of the 2-year period beginning on the date of the enactment of this Act" and inserting in lieu thereof "on September 30, 1990".

12 USC 1715*l* note.

SEC. 202. CLARIFICATION OF APPLICABILITY TO VOLUNTARY TERMINATION OF INSURANCE.

(a) General Prepayment Limitation.—Section 221(a) of the Emergency Low Income Housing Preservation Act of 1987 is amended by adding at the end the following new sentence: "An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Secretary under this subtitle.

12 USC 1715*l* note.

(b) Alternative Prepayment Limitation.—Section 221(b) of the Emergency Low Income Housing Preservation Act of 1987 is amended—

(1) by striking the first comma and inserting "(1)"; and

(2) by inserting before the period at the end of the sentence the following: ", and (2) an insurance contract with respect to eligible low-income housing located in the geographic area subject to the jurisdiction of such court may not be terminated pursuant to section 229 of the National Housing Act during the 2-year period following the date of such invalidation".

(c) Notice of Intent.—Section 222 of the Emergency Low Income Housing Preservation Act of 1987 is amended by inserting after "agreement" the following: "(including a request to terminate the insurance contract pursuant to section 229 of the National Housing Act)".

12 USC 1715*l* note.

(d) Conforming Amendments.—

(1) Section 250(a) of the National Housing Act is amended by inserting after "project" the second place it appears the following: "or permit a termination of an insurance contract pursuant to section 229 of this Act".

12 USC 1715z-15.

(2) Section 229 of the National Housing Act is amended by inserting after "section 2" the following: "and except as specified under section 250 of this Act and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,".

12 USC 1715t.

SEC. 203. INCENTIVES TO EXTEND LOW-INCOME USE.

(a) Loans.—

(1) Acquisitions by public entities.—Section 236(b) of the National Housing Act is amended by inserting "public entity," before "or a cooperative housing corporation".

12 USC 1715z-1.

(2) Capital improvement loans.—(A) Section 201(m)(2)(B) of the Housing and Community Development Amendments of 1978 is amended by striking "Reduce" and inserting "Notwithstanding subsection (l)(2)(B), reduce".

12 USC 1715z-1a.

(B) Section 201(m)(2) of the Housing and Community Development Amendments of 1978 is amended—

(i) by striking "not subject to paragraph (1)";

(ii) by inserting after "residents" the second place it appears the following: ", or where appropriate to implement a plan of action under subtitle B of the Emergency Low Income Housing Preservation Act of 1987";

(iii) adding a new subparagraph after subparagraph (D):

"(E) Permit repayment of the debt service to be deferred as long as the low and moderate income character of the project is maintained in accordance with subsection (d).".

(b) APPROVAL OF PLAN OF ACTION.—

12 USC 1715*l* note.

(1) TENANT PROFILE.—Section 225(b)(3)(F)(i) of the Emergency Low Income Housing Preservation Act of 1987 is amended by inserting before the semicolon the following: "(based on the area median income limits established by the Secretary in February, 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing".

(2) SECTION 8 RENTAL ASSISTANCE.—Section 225 of the Emergency Low Income Housing Preservation Act of 1987 is amended by adding at the end the following new subsections:

Contracts.

"(c) SECTION 8 RENTAL ASSISTANCE.—When providing rental assistance under section 8, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods as is necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):—

"(1) Modification of the binding commitments made pursuant to subsection (b) that are dependent on such rental assistance.

"(2) If action under paragraph (1) is not feasible, release of an owner from the binding commitments made pursuant to subsection (b) that are dependent on such rental assistance.

"(3) If action under paragraphs (1) and (2) would, in the determination of the Secretary, result in the default of the insured loan, approval of the revised plan of action, notwithstanding subsection (a), that involves the termination of low-income affordability restrictions.

At least 30 days prior to making a request under the preceding sentence, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under subsection (b).

"(d) RELOCATION OF DISPLACED TENANTS.—Any plan of action shall specify actions that the Secretary and the owner shall take to ensure that any tenants, displaced as a result of a plan of action approved under subsection (a) or as a result of modifications taken pursuant to subsection (c), are relocated to affordable housing.".

(c) INSURANCE FOR SECOND MORTGAGE FINANCING.—

12 USC 1715z-6.

(1) UNDERWRITING.—Section 241(f)(2) of the National Housing Act is amended by adding at the end the following sentence:

"When underwriting an equity loan under this subsection, the Secretary may assume that the rental assistance provided in accordance with an approved plan of action under section 225(b) of the Emergency Low Income Housing Preservation Act of 1987 will be extended for the full term of the contract entered into under section 225(c) of that Act. The Secretary may accelerate repayment of a loan under this section in the event rental assistance is not extended under section 225(c) of that Act or the Secretary is unable to develop a revised package of incentives to the owner comparable to those received under the original approved plan of action.".

(2) ACQUISITIONS BY PUBLIC ENTITIES.—Section 241(f)(3) of the National Housing Act is amended by inserting "public entity," after "A". 12 USC 1715z-6.

(d) LIMITATIONS ON FORECLOSURE.—Section 241(f) of the National Housing Act is amended by adding at the end the following new paragraph:

"(6) If the Secretary is unable to extend the term of rental assistance for the full term of the contract entered into under section 225(c) of the Emergency Low Income Housing Preservation Act of 1987, the Secretary is authorized to take such actions as the Secretary deems to be appropriate to avoid default, avoid disruption of the sound ownership and management of the property or otherwise minimize the cost to the Federal Government.".

SEC. 204. PRESERVATION.

(a) MANAGEMENT AND PRESERVATION OF HUD-OWNED AND HUD-HELD MULTIFAMILY HOUSING PROJECTS.—Section 203(k) of the Housing and Community Development Amendments of 1978 is amended to read as follows: "The Secretary shall annually submit to the Congress on June 1 of each year a report describing the status of multifamily housing projects that are subject to subsection (a), which report shall include— 12 USC 1701z-11. Reports.

"(1) the name, address, and size of each project;

"(2) the nature and date of assignment;

"(3) the status of the mortgage;

"(4) the physical condition of the project;

"(5) the proportion of units in a project that are vacant;

"(6) the date on which the Secretary became mortgagee in possession or the date of imposition of any receivership;

"(7) the date and conditions of any foreclosure sale;

"(8) the date of acquisition by the Secretary; and

"(9) the date and conditions of any property disposition sale.

The report shall describe the activities carried out under subsection (e) during the preceding year, and shall contain a description and assessment of the rules, guidelines and practices governing the Department's assumption of management responsibilities in multifamily housing projects subject to subsection (a) that are owned by the Secretary (or for which the Secretary is mortgagee in possession) as well as the steps that the Secretary has taken or plans to take to expedite the assumption of management responsibilities of the Department and improve the management performance of the Department, including the expedited repair and turnover of vacant units.".

(b) REHABILITATION LOANS.—Section 241 of the National Housing Act is amended by inserting the following after subsection (f):

"(g)(1) When underwriting a rehabilitation loan under this section in connection with eligible multifamily housing, the Secretary may assume that any rental assistance provided for purposes of servicing the additional debt will be extended for the term of the rehabilitation loan. The Secretary shall exercise prudent underwriting practices in insuring rehabilitation loans under this section. For purposes of this subsection, the term 'eligible multifamily housing' means any housing financed by a loan or mortgage that is—

"(A) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

"(B) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act; or

"(C) insured, assisted or held by the Secretary under section 236 of the National Housing Act.

"(2) A mortgagee approved by the Secretary may not withhold consent to a rehabilitation loan insured in connection with eligible multifamily housing on which that mortgagee holds a mortgage.".

12 USC 1715z-1a note.

(c) CAPITAL ASSESSMENT STUDY.—(1) The Secretary of Housing and Urban Development shall conduct a study to determine the physical renovation needs of the Nation's federally-assisted multifamily housing inventory that is distressed and to estimate the cost of correcting deficiencies and subsequently maintaining that inventory in adequate physical condition. The Secretary shall establish criteria to determine what housing qualifies as distressed and such criteria shall include factors such as serious deficiencies in the original design, deferred maintenance, physical deterioration or obsolescence of major systems and other serious deficiencies in the physical plant of a project. The study shall examine and assess the adequacy of existing tools that are available to the Secretary for modernization efforts including—

(A) mortgage insurance for rehabilitation loans under section 241 of the National Housing Act;

(B) operating assistance and capital improvement loans under section 201 of the Housing and Community Development Amendments of 1978 (the "Flexible Subsidy Program"); and

(C) rental assistance under section 8.

Reports.

The study shall also examine and assess the effectiveness of sanctions that are now available to the Secretary. Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study. The Secretary shall submit to the Congress an interim report containing the information required under paragraph (2) not later than April 1, 1990.

Reports.

(2) The examination and assessment of the Flexible Subsidy Program required by paragraph (1) shall include—

(A) an accounting of all applications that have been approved or rejected since 1980;

(B) an analysis of all applications that have not been acted upon since 1980 including the length of time such applications have been pending, the amount of assistance requested, and the number of units affected;

(C) an estimate of the funding that will be made available to the Flexible Subsidy Fund under section 201(j) of the Housing and Community Development Amendments of 1978 in the next three fiscal years; and

(D) an assessment of what additional resources will be needed for the Fund in the next three fiscal years.

(3) The term "federally-assisted multifamily housing" means housing financed by a loan or mortgage that is—

(A) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(B) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act; or

(C) insured, assisted or held by the Secretary under section 236 of the National Housing Act.

SEC. 205. REPORT ON PROPERTY DISPOSITION DEMONSTRATION.

The Secretary of Housing and Urban Development shall submit to the Congress, not later than 30 days after the date of enactment of this Act, a report describing the steps that have been and will be taken to implement section 184 of the Housing and Community Development Act of 1987 including a detailed description of—

(1) the efforts taken by the Secretary to solicit participants in the demonstration;

(2) any applications, responses or other expressions of interest submitted by State housing finance agencies;

(3) the reasons for the Secretary's refusal, as of the date of enactment of this Act, to approve such applications; and

(4) the steps that the Secretary has taken and plans to take to ensure that the demonstration is implemented in at least one State within 90 days after the date of enactment of this Act.

SEC. 206. PROHIBITION ON PREPAYMENT OF NEW RURAL HOUSING LOANS.

(a) In General.—Section 502(c)(1) of the Housing Act of 1949 is amended— 12 USC 1472.

(1) by inserting "(A)" after "(c)(1)";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(3) by adding at the end the following new subparagraph:

"(B) The Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 515 pursuant to a contract entered into on or after the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989.".

(b) Conforming Amendment.—Section 502(c)(1) of the Housing Act of 1949 is amended—

(1) by striking "after the date of enactment of this subsection," and inserting the following: "after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989,"; and

(2) by striking "after the date of enactment of this subsection and" and inserting the following: "after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, and".

SEC. 207. EQUITY TAKEOUT INCENTIVE FOR NEW RURAL HOUSING LOANS.

42 USC 1485.

Section 515 of the Housing Act of 1949 is amended by adding at the end the following new subsection:

"(t) EQUITY TAKEOUT LOANS.—

"(1) AUTHORITY.—The Secretary is authorized to guarantee an equity loan (in the form of a supplemental loan) to an owner of housing financed with a loan made or insured under subsection (b), only if the Secretary determines, after taking into account local market conditions, that there is reasonable likelihood that the housing will continue as decent, safe, and sanitary housing for the remaining life of the original loan on the project made or insured under subsection (b) and that such an equity loan is—

"(A) necessary to provide a fair return on the owner's investment in the housing;

"(B) the least costly alternative for the Federal Government that is consistent with carrying out the purposes of this subsection; and

"(C) would not impose an undue hardship on tenants or an unreasonable cost to the Federal Government.

The amount of loans guaranteed under this subsection shall be subject to limits provided in appropriations Acts.

"(2) TIMING.—The Secretary is authorized to guarantee an equity loan under this subsection after the expiration of the 20-year period beginning on the date that an existing loan under subsection (b) of this section was made or insured. Not more than one equity loan under this subsection may be provided for any project.

"(3) AMOUNT OF THE TAKEOUT.—The amount of an equity loan under this subsection shall not exceed the difference between the outstanding principal on debt secured by the project and 90 percent of the appraised value of the project. The appraised value of the project shall be determined by 2 independent appraisers, 1 of whom shall be selected by the Secretary and 1 of whom shall be selected by the owner. If the 2 appraisers fail to agree on the value of the project, the Secretary and the owner shall jointly select a third appraiser whose appraisal shall be binding on the Secretary and the owner. The amount of the equity loan shall not exceed 30 percent of the amount of the original loan on the project made or insured under subsection (b).

"(4) RESERVE ACCOUNT PAYMENTS.—For each loan made or insured under subsection (b) pursuant to a contract entered into after the date this subsection takes effect, the owner shall make monthly payments from project income to the Secretary for deposit in a reserve account for the project. Such monthly payments shall, in the first year after the loan is made or insured, equal $2 for each unit in the project, and shall increase by $2 annually until the expiration of the 20-year period beginning on the date that the loan was made or insured, except that such annual increases shall not be required for a unit occupied by a low-income family or individual who is paying more than 30 percent of the family's or individual's adjusted income in rent. The rent on a unit for which payment is made under this paragraph shall be increased by the amount of such payment.

"(5) RESERVE ACCOUNT.—

"(A) Payments under paragraph (4) shall be deposited in an interest bearing account that the Secretary shall establish for the project.

"(B) The Secretary shall make available amounts in the reserve account only for payments of principal and interest on an equity loan under this subsection. Such payments shall be in amounts necessary to ensure that rent payments made by low-income families residing in the housing do not exceed the maximum rent under section 521(a)(2)(A);

"(C) Any payments to the account, and interest on such payments, not expended in the project from which such payments were made, shall be used in other projects to make payments of principal and interest on an equity loan under this subsection. Such payments shall be in amounts necessary to ensure that rent payments made by low-income families residing in the housing do not exceed the maximum rent under section 521(a)(2)(A).

"(D) The Secretary shall make payments from accounts under this paragraph only to the extent provided in appropriations Acts.

"(6) SUBMISSION OF PLAN.—An owner requesting an equity loan under this subsection shall submit a plan acceptable to the Secretary to ensure that the cost of amortizing an equity loan under paragraph (1) does not result in the displacement of very-low-income tenants or substantially alter the income mix of the tenants in the project.

"(7) REGULATIONS.—The Secretary shall issue final regulations within 180 days from the date of enactment of this subsection.

"(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to any applications for assistance under this section on or after the expiration of 180 days from the date of enactment of this subsection.".

TITLE III—HOUSING PROGRAM EXTENSIONS AND CHANGES

SEC. 301. FLEXIBLE SUBSIDY PROGRAM.

Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1989" and inserting "September 30, 1991". 12 USC 1715z-1.

SEC. 302. CONTINUATION OF PUBLIC HOUSING ECONOMIC RENT.

Section 3(a)(2) of the United States Housing Act of 1937 is amended— 42 USC 1437a.

(1) in subparagraph (A), by striking "3-year" and inserting "5-year"; and

(2) in subparagraph (B)—

(A) by striking "3-year" and inserting "5-year"; and

(B) by adding at the end the following: "The terms of all ceiling rents established prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989 shall be extended for the 5-year period beginning on such date of enactment.".

SEC. 303. EXTENSION OF RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

42 USC 1490o.

Section 535(b) of the Housing Act of 1949 is amended by striking "1-year period beginning on the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988" and inserting the following: "6-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989".

SEC. 304. HODAG AMENDMENT.

42 USC 1437o.

Section 17(d) of the United States Housing Act of 1987 is amended as follows:

"(11) Sale of units.—

"(A) In general.—Notwithstanding any other provision of law, in the case of a project assisted by a development grant awarded pursuant to this section where (i) the grant was originally approved for a nonprofit cooperative, and (ii) a majority of the units in the approved project have 3 or more bedrooms, the nonprofit owner of such project may sell such units for fee simple or condominium ownership if the requirements of subparagraph (B) are met.

"(B) Requirements.—The requirements of this subparagraph are that—

"(i) at least 80 percent of the units in the project are initially sold to households with incomes that do not exceed 80 percent of the median income of the area;

"(ii) housing cost to such households shall be initially calculated at not to exceed 30 percent of actual household income;

"(iii) each purchaser agrees that, during the 20-year period following the initial sale, any subsequent resale of the unit shall be to a purchaser whose income does not exceed 80 percent of the median income for the area; and

"(iv) after the 20-year period described in clause (iii), the pro rata grant attributable to a unit, which shall be secured by a deed of trust on the unit, shall be repaid upon any sale, lease, or transfer of any interest in the unit except for a sale of the unit to a purchaser whose income does not exceed 80 percent of the median income of the area.

"(C) Refinancing.—A refinancing of the unit involving an equity withdrawal shall require a repayment to the extent of the withdrawal not to exceed the pro rata amount of the grant attributable to the unit. A refinancing unrelated to a sale, equity withdrawal, lease, or transfer of interest shall not require repayment.

"(D) Administration.—A homeowner may request grantee approval of a sale, equity withdrawal, or other transfer with postponement of the repayment or without full or partial repayment and grantee may approve if the grantee determines that—

"(i) an undue hardship will result from the application of the repayment requirement, such as where the proceeds are insufficient to repay the loan in full; or

"(ii) postponing repayment is in the interest of neighborhood growth and stability.

"(E) Effect of repayment.—Upon repayment of the grant, any program requirements affecting the unit shall terminate. The grantee shall use repayments of the grant for low and moderate income housing as prescribed by the Secretary. Notwithstanding any existing project covenants or inconsistencies with this section, the Secretary shall take all action necessary to implement this paragraph.".

TITLE IV—RURAL HOUSING

SEC. 401. ACCOUNTABILITY IN AWARDS OF ASSISTANCE; REMEDIES AND PENALTIES.

(a) IN GENERAL.—Title V of the Housing Act of 1949 is amended by adding at the end the following:

"ACCOUNTABILITY

"SEC. 536. (a) NOTICE REGARDING ASSISTANCE.—

Federal register, publication.
42 USC 1490p.

"(1) PUBLICATION OF NOTICE OF AVAILABILITY.—The Secretary shall publish in the Federal Register notice of the availability of any assistance under any program or discretionary fund administered by the Secretary under this title.

"(2) PUBLICATION OF APPLICATION PROCEDURES.—The Secretary shall publish in the Federal Register a description of the form and procedures by which application for the assistance may be made, and any deadlines relating to the award or allocation of the assistance. Such description shall be sufficient to enable any eligible applicant to apply for such assistance.

"(3) PUBLICATION OF SELECTION CRITERIA.—Not less than 30 days before any deadline by which applications or requests for assistance under any program or discretionary fund administered by the Secretary must be submitted, the Secretary shall publish in the Federal Register the criteria by which selection for the assistance will be made. Such criteria shall include any objective measures of housing need, project merit, or efficient use of resources that the Secretary determines are appropriate and consistent with the statute under which the assistance is made available.

"(4) DOCUMENTATION OF DECISIONS.—

"(A) The Secretary shall award or allocate assistance only in response to a written application in a form approved in advance by the Secretary, except where other award or allocation procedures are specified in statute.

"(B) The Secretary shall ensure that documentation and other information regarding each application for assistance is sufficient to indicate the basis on which any award or allocation was made or denied. The preceding sentence shall apply to—

State and local governments.

"(i) any application for an award or allocation of assistance made by the Secretary to a State, unit of general local government, or other recipient of assistance, and

"(ii) any application for a subsequent award or allocation of such assistance by such State, unit of general local government or other recipient.

Public information.

"(C) The Secretary shall ensure that each application and all related documentation and other information referred to in subparagraph (B) is readily available for public inspection for a period of not less than 10 years, beginning not less than 30 days following the date on which the award or allocation is made.

"(5) **Emergency exception.**—The Secretary may waive the requirements of paragraphs (1), (2), and (3) if the Secretary determines that the waiver is required for adequate response to an emergency. Not less than 30 days after providing a waiver under the preceding sentence, the Secretary shall publish in the Federal Register the Secretary's reasons for so doing.

"(b) **Disclosures by Applicants.**—The Secretary shall require the disclosure of information with respect to any application for assistance under this title submitted by any applicant who has received or, in the determination of the Secretary, can reasonably be expected to receive assistance under this title in excess of $200,000 in the aggregate during any fiscal year. Such information shall include the following:

"(1) **Other government assistance.**—Information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is expected to be made available with respect to the project or activities for which the applicant is seeking assistance under this title. Such related assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

"(2) **Interested parties.**—The name and pecuniary interest of any person who has a pecuniary interest in the project or activities for which the applicant is seeking assistance. Persons with a pecuniary interest in the project or activity shall include but not be limited to any developers, contractors, and consultants involved in the application for assistance under this title or the planning, development, or implementation of the project or activity. For purposes of this paragraph, residency of an individual in housing for which assistance is being sought shall not, by itself, be considered a pecuniary interest.

Reports.

"(3) **Expected sources and uses.**—A report satisfactory to the Secretary of the expected sources and uses of funds that are to be made available for the project or activity.

"(c) **Updating of Disclosure.**—During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required under the previous subsection within 30 days of any substantial change.

"(d) **Regulation of Lobbyists and Consultants.**—

"(1) **Limitation of fees.**—Any person who is engaged for pay or for any consideration for the purpose of attempting to influence any award or allocation of assistance by the Secretary shall not seek or receive any fee that is—

"(A) based on the amount of assistance or number of units that may be provided by the Secretary, or

"(B) contingent on an award of assistance by the Secretary, except that professional services related to a project may be donated in whole or in part to a community housing development organization in the event assistance for a project is not awarded.

"(2) **Registration.**—Any person who will be engaged for pay or for any consideration for the purpose of attempting to influence any award or allocation of assistance by the Secretary shall, before doing anything in furtherance of such object, register by submitting to the Secretary a sworn statement containing—

"(A) such person's name and business address,

"(B) the nature and duration of any previous Federal employment,

"(C) the name and address of the person by whom such person is employed, and in whose interest such person appears or works,

"(D) the duration of such employment,

"(E) how much such person is paid and is to receive,

"(F) by whom such person is paid or is to be paid,

"(G) how much such person is to be paid for expenses, and

"(H) what expenses are to be included.

For purposes of this paragraph, ownership by an individual of a single family home financed under section 502 does constitute pay or consideration.

"(3) Reporting.—Each person registering under paragraph (2) shall, between the first and tenth day of each calendar quarter, so long as such person's activity continues, file with the Secretary a detailed report under oath setting forth—

"(A) all money received and expended by such person during the preceding calendar quarter in carrying on such person's work;

"(B) an identification of the person or persons to whom funds were paid and the purposes of such payments;

"(C) all awards or allocations of assistance under this title that the person attempted to influence; and

"(D) any contacts with any employee of the Department for the purpose of attempting to influence any award or allocation of assistance by the Secretary.

"(e) Remedies and Penalties.—

"(1) Administrative remedies.—If the Secretary receives or obtains information providing a reasonable basis to believe that a violation of subsection (b), (c), or (d) this section has occurred, the Secretary shall—

"(A) in the case of a selection that has not been made, determine whether to terminate the selection process or take other appropriate actions; and

"(B) in the case of a selection that has been made, determine whether to—

"(i) void or rescind the selection, subject to review and determination on the record after opportunity for a hearing;

"(ii) impose sanctions upon the violator, including debarment, subject to review and determination on the record after opportunity for a hearing;

"(iii) recapture any funds that have been disbursed;

"(iv) permit the violating applicant selected to continue to participate in the program; or

"(v) take any other actions that the Secretary considers appropriate.

The Secretary shall publish in the Federal Register a descriptive statement of each determination made and action taken under this paragraph.

"(2) Civil penalties.—Whoever violates any section of this section shall be subject to the imposition of a civil penalty in a civil action brought by the United States in an appropriate district court of the United States. A civil penalty under this paragraph may not exceed—

"(A) $100,000 in the case of an individual; or

"(B) $1,000,000 in the case of an applicant other than an individual.

"(3) **Deposit of penalties in insurance funds.**—Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the Rural Housing Insurance Fund.

"(4) **Nonexclusiveness of remedies.**—This subsection may not be construed to limit the applicability of any requirements, sanctions, penalties, or remedies established under any other law. The Secretary shall not be relieved of any obligation to carry out the requirements of this section because such other requirements, sanctions, penalties, or remedies apply.

"(f) **Limitation of Assistance.**—The Secretary shall certify that assistance provided by the Secretary to any housing project shall not be more than is necessary to provide affordable housing after taking account of assistance from all Federal, State, and local sources. The Secretary shall adjust the amount of assistance provided to an applicant to compensate for any changes reported under subsection (c).

"(g) **Regulations.**—Not less than 180 days following enactment of this Act, the Secretary shall promulgate regulations to implement this section.

"(h) **Definition.**—For purposes of this section, the term 'assistance' means any housing grant, loan, guarantee, insurance, rebate, subsidy, tax credit benefit, or other form of direct or indirect assistance.

"(i) **Report by the Secretary.**—The Secretary shall submit to the Congress, not later than 180 days following the date of enactment of this section, a report describing actions taken to carry out this section, including actions to inform and educate officers and employees of the Department of Agriculture regarding the provisions of this section.".

42 USC 1490p note.

(b) **Effective Date.**—Section 536 of the Housing Act of 1949, as added by subsection (a), shall take effect on the effective date of regulations implementing such section.

SEC. 402. REUSE OF SECTION 515 LOAN AUTHORITY.

Section 515 of the Housing Act of 1949, as amended by section 207, is amended by adding at the end the following:

"(u) **Reuse of Loan Authority.**—Loan authority that is obligated under this section but that is not expended due to any action that removes the original borrower, may be reallocated to a different borrower during the same fiscal year in which the loan authority was obligated.".

12 USC 1715z-1a note.

TITLE V—NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SEC. 501. PURPOSE.

The purpose of this title is to establish a National Commission on Severely Distressed Public Housing—

(1) to identify those public housing projects in the Nation that are in a severe state of distress;

(2) to assess the most promising strategies to improve the condition of severely distressed public housing projects that have been implemented by public housing authorities, other Government agencies at the Federal, State, and local level, public housing tenants, and the private sector;

(3) to develop a national action plan to eliminate by the year 2000 unfit living conditions in public housing projects determined by the Commission to be the most severely distressed.

SEC. 502. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the National Commission on Severely Distressed Public Housing (hereinafter in this title referred to as the "Commission").

SEC. 503. MEMBERSHIP OF COMMISSION.

(a) **Appointment.**—(1) The Commission shall be composed of 18 members, appointed not later than 60 days after amounts are appropriated pursuant to section 506 or made available from non-Federal sources. The members shall be as follows:

(A) 6 members to be appointed by the Secretary of Housing and Urban Development;

(B) 6 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and Ranking Minority Member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations of the Senate; and

(C) 6 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Chairman and Ranking Minority Member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations of the House of Representatives.

(2) The Secretary and the congressional leaders referred to in paragraph (1) shall each appoint as member of the Commission—

(A) 2 individuals who are elected public officials at the Federal, State, or local level;

(B) 2 individuals who are local public housing officials or representatives of public housing authorities with experience in eliminating unfit living conditions in severely distressed public housing projects;

(C) 1 individual who is a tenant or a representative of tenants or a tenant organization; and

(D) 1 individual who is a leader of business or labor or is a distinguished academic in the field of housing and urban development.

(b) **Chairperson.**—The Commission shall elect a chairperson from among members of the Commission.

(c) **Quorum.**—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(d) **Voting.**—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(e) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(f) PROHIBITION ON ADDITIONAL PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

SEC. 504. FUNCTIONS OF THE COMMISSION.

(a) IDENTIFICATION OF SEVERELY DISTRESSED PUBLIC HOUSING PROJECTS.—The Commission shall identify those public housing projects that are in a severe state of distress, giving special attention to projects that—

(1) require major redesign to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

(2) are occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

(3) are locations for recurrent vandalism and criminal activity (including drug-related criminal activity);

(4) suffer from management deficiencies, including absence of effective management systems to (A) repair and re-rent vacant units expeditiously; (B) maintain units and common areas; (C) terminate the tenancy of tenants engaged in activity that adversely affects the health, safety, and right to quiet enjoyment of their neighbors; (D) collect rents; (E) encourage tenant participation and cooperation in management and maintenance; and (F) maintain adequate security; and

(5) meet such other criteria that the Commission determines to be evidence of unfit living conditions.

(b) EVALUATION OF ALTERNATIVE STRATEGIES.—The Commission shall assess the most promising strategies to eliminate unfit living conditions in severely distressed public housing projects that have been implemented by public housing authorities, other Government agencies at the Federal, State, and local level, public housing tenants, and the private sector. Such strategies may include but shall not be limited to—

(1) measures to correct management deficiencies;

(2) the provision of supportive services to project residents, and, if necessary, the redesign of projects to accommodate such services;

(3) the redesign of projects to reduce density and otherwise eliminate harmful design elements;

(4) the conversion of projects to mixed-income housing developments; and

(5) the total or partial demolition or disposition of projects.

Evaluation of such strategies shall consider efforts to provide for replacement of public housing dwelling units that were demolished, disposed of or otherwise removed from use by low-income persons.

(c) DEVELOPMENT OF NATIONAL ACTION PLAN.—The Commission shall establish a national action plan to eliminate by the year 2000 unfit living conditions in public housing projects identified in subsection (a). The action plan shall—

(1) specify objectives that the Department of Housing and Urban Development could achieve in cooperation with public housing authorities, public housing tenants, and other interested parties;

(2) provide a schedule by which such objectives could be achieved;

(3) recommend any legislative or administrative action that is necessary to achieve such objectives;

(4) make recommendations regarding any necessary replacement of public housing; and

(5) calculate, in accordance with the schedule established above, any impact on Federal expenditures necessary to achieve such objectives.

(d) FINAL REPORT.—Not later than 12 months after the Commission is established pursuant to section 503(a), the Commission shall submit to the Secretary and to the Congress a final report which shall contain the information, evaluations, and recommendations specified above.

SEC. 505. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) The Commission may secure directly from any department or agency of the United States such data and information as the Commission may require for the purpose of this subtitle, including but not limited to comprehensive plans submitted by public housing authorities in accordance with section 14 of the United States Housing Act of 1937, and applications submitted by public housing authorities requesting funds for the major reconstruction of public housing projects in accordance with section 5 of such Act. Upon request of the Commission, any such department or agency shall furnish such data or information. The Commission may acquire data or information directly from public housing authorities to the same extent the Secretary could acquire such data or information.

(2) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this subtitle.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this subtitle.

(f) STAFF.—(1) The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

(2) In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title not to exceed $2,000,000 for fiscal year 1990 and $1,000,000 for fiscal year 1991. Funds appropriated under this section shall remain available until expended.

SEC. 507. SUNSET.

The Commission shall terminate upon the expiration of 18 months following the appointment of all the members under section 503(a).

12 USC 1437aa note.

TITLE VI—NATIONAL COMMISSION ON NATIVE AMERICAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

SEC. 601. ESTABLISHMENT.

There is established a Commission to be known as the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing (hereinafter in this section referred to as the "Commission").

SEC. 602. MEMBERSHIP.

(a) APPOINTMENT.—(1) The Commission shall be composed of 12 members, appointed not later than 60 days after amounts are appropriated pursuant to section 605 of this Act or made available from non-Federal sources. The members shall be appointed as follows:

(A) 2 members to be appointed by the Secretary of Housing and Urban Development;

(B) 2 members appointed by the Chairman and the Ranking Minority Member of the Select Committee on Indian Affairs of the Senate;

(C) 3 members appointed by the Chairman and the Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance, and Urban Affairs of the House of Representatives;

(D) 3 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban

Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(E) 1 Native Hawaiian appointed by the Secretary of Housing and Urban Development; and

(F) 1 Native Hawaiian appointed by the Chairman and Ranking Minority Member of the Select Committee on Indian Affairs of the Senate.

(2) Except as provided in paragraph (3), the Secretary and the congressional leaders referred to in subparagraphs (A) through (D) of paragraph (1) shall appoint as members of the Commission individuals who are elected officials of Indian tribes, who are officials of Indian housing authorities, or who have experience in Federal Indian housing programs.

(3) The congressional leaders referred to in subparagraphs (C) and (D) paragraph (1) shall appoint 1 individual under each such clause with experience in housing development and finance.

(4) The members appointed under subparagraphs (E) and (F) of paragraph (1) shall be individuals with experience in the Native Hawaiian community in housing programs available to beneficiaries of the Hawaiian Homes Commission Act of 1920.

(b) CHAIRPERSON.—The Commission shall elect a chairperson from among the members of the Commission.

(c) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(d) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(e) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the original manner in which the appointment was made.

(f) PROHIBITION ON ADDITIONAL PAY.—Members on the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(g) TERMINATION.—The Commission shall terminate upon the expiration of 18 months after all members of the Commission are appointed under paragraph (1).

SEC. 603. FUNCTIONS OF THE COMMISSION.

(a) EVALUATION OF CURRENT PROBLEMS.—The Commission shall evaluate the factors currently impeding the development of safe and affordable housing for American Indians, Alaska Natives, and Native Hawaiians, including factors related to tribal administrative capacity, property management, access to financial markets, infrastructure development, and the adequacy of existing housing programs for Indians, Alaska Natives, and Native Hawaiians.

(b) EVALUATION OF ALTERNATIVE STRATEGIES.—The Commission shall assess the most promising strategies for the development, management, and modernization of housing for Indians, Alaska Natives, and Native Hawaiians. The Commission shall, in particular, evaluate housing strategies that have been or could be carried out by Indian housing authorities, public housing authorities, other government agencies at the Federal, State and local level, and the private sector.

(c) DEVELOPMENT OF AN ACTION PLAN.—The Commission shall establish an action plan for American Indian and Alaska Native housing based upon the assessment in subsections (a) and (b). The action plan shall—

(1) specify objectives that the Department of Housing and Urban Development could achieve in cooperation with Indian housing authorities, Indian tribes, Native Hawaiian organizations, and other interested parties;

(2) provide a schedule by which such objectives could be achieved; and

(3) recommend legislative, regulatory, or administrative action necessary to achieve such objectives.

(d) Final Report.—Not later than 12 months after the appointment of members of the Commission under section 602(a), the Commission shall submit to the Secretary and to the Congress a final report which shall contain the information, evaluations, and recommendations specified above.

(e) Definition.—As used in this section, the term "Native Hawaiian organization" means any organization which is established and controlled by beneficiaries or eligible beneficiaries under the provisions established by the Hawaiian Homes Commission Act of 1920.

SEC. 604. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may for the purpose of carrying out this title, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(b) Rules and Regulations.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) Assistance From Federal Agencies.—

(1) The Commission may secure directly from any department or agency of the United States such data and information as the Commission may require for the purpose of this title. Upon request of the Commission, any such department or agency shall furnish such data or information. The Commission may require data or information directly from Indian housing authorities to the same extent the Secretary could acquire such data or information.

(2) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this title.

(d) Mails. —The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) Contracting. —The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title.

(f) Staff.—(1) The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the

Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

(2) In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(3) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $500,000 for each of the fiscal years 1990 and 1991. Any sums so appropriated shall remain available until expended.

TITLE VII—MISCELLANEOUS

SEC. 701. NULLIFICATION OF RIGHT OF REDEMPTION OF SINGLE FAMILY MORTGAGORS UNDER SECTION 312 REHABILITATION LOAN PROGRAM.

Real property.
State and local governments.
42 USC 1452c.

(a) IN GENERAL.—Whenever with respect to a single family mortgage securing a loan under section 312 of the Housing Act of 1964, the Secretary of Housing and Urban Development or its foreclosure agent forecloses in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to any interests senior to the interests of the Secretary. With respect to properties that are vacant and abandoned, notwithstanding any State law to the contrary, there shall be no right of redemption (including all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with such single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(b) FORECLOSURE BY OTHERS.—Whenever with respect to a single family mortgage on a property that also has a single family mortgage securing a loan under section 312 of the Housing Act of 1964, a mortgagee forecloses in any Federal or State court or pursuant to a power of sale in a mortgage, the Secretary of Housing and Urban Development, if the Secretary is purchaser at the foreclosure sale, shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the mortgagee. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) if the mortgagor or any other person subsequent to the foreclosure sale to the Secretary in connection with a property that secured a single family mortgage for a loan under section 312 of the Housing Act of 1964. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the Secretary, who is the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(c) VERIFICATION OF TITLE.—The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

(1) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(2) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in paragraph (1) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(2) The term "single family mortgage" means a mortgage that covers property that includes a 1- to 4-family residence.

SEC. 702. CDBG GRANTS TO INDIAN TRIBES.

(a) ELIMINATION FROM DEFINITION OF NONENTITLEMENT AREAS.—Section 102(a)(7) of the Housing and Community Development Act of 1974 is amended by striking the period at the end and inserting the following: "and does not include Indian tribes.". 42 USC 5302.

(b) ALLOCATION.—Section 106 of the Housing and Community Development Act of 1974 is amended— 42 USC 5306.

(1) in subsection (a)—

(A) by inserting "and Indian tribes" before the period at the end of the first sentence; and

(B) by striking the period at the end and inserting the following: "Indian tribes shall receive grants from such allocation pursuant to subsection (b)(7).";

(2) in subsection (b)(1), by striking "The" and inserting "After taking into account the set-aside for Indian tribes under paragraph (7), the";

(3) in subsection (b)(2), by striking "The" and inserting "After taking into account the set-aside for Indian tribes under paragraph (7), the";

(4) in subsection (b), by adding at the end the following new paragraphs:

"(7)(A) For each fiscal year, the Secretary shall reserve for grants to Indian tribes, from amounts approved in appropriation Acts under section 103 for grants for the year under subsection (a), not more than 1 percent of the amounts appropriated under such section.

"(B) The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment."; and

(5) in subsection (d), by striking paragraph (4).

42 USC 5306 note.

(c) Office of Indian and Alaska Native Programs.—The Secretary of Housing and Urban Development shall administer grants to Indian tribes under title I of the Housing and Community Development Act of 1974 through the Office of Indian and Alaska Native Programs of the Department of Housing and Urban Development.

42 USC 5306 note.

(d) Regulations.—The Secretary shall issue any regulations necessary to carry out this section and the amendments made by this section in a manner and by such time to provide for the effectiveness of such regulations with respect to amounts appropriated for fiscal year 1991 under section 103 of the Housing and Community Development Act of 1974.

42 USC 5306 note.

(e) Applicability.—The amendments made by this section shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 for fiscal year 1991 and each fiscal year thereafter.

TITLE VIII—SECTION 8 RENT ADJUSTMENTS

Contracts.

SEC. 801. ANNUAL ADJUSTMENT FACTORS FOR SECTION 8 RENTS.

42 USC 1437f note.

(a) Effect of Prior Comparability Studies.—

(1) In general.—In any case in which, in implementing section 8(c)(2) of the United States Housing Act of 1937—

(A) the use of comparability studies by the Secretary of Housing and Urban Development or the appropriate State agency as an independent limitation on the amount of rental adjustments resulting from the application of an annual adjustment factor under such section has resulted in the reduction of the maximum monthly rent for units covered by the contract or the failure to increase such contract rent to the full amount otherwise permitted under the annual adjustment factor, or

(B) an assistance contract requires a project owner to make a request before becoming eligible for a rent adjustment under the annual adjustment factor and the project owner certifies that such a request was not made because of anticipated negative adjustment to the project rents,

for fiscal year 1980, and annually thereafter until regulations implementing this section take effect, rental adjustments shall be calculated as an amount equal to the annual adjustment factor multiplied by a figure equal to the contract rent minus the amount of contract rent attributable to debt service. Upon the request of the project owner, the Secretary shall pay to the project owner the amount, if any, by which the total rental adjustment calculated under the preceding sentence exceeds the total adjustments the Secretary or appropriate State agency actually approved, except that solely for purposes of calculating retroactive payments under this subsection, in no event shall any project owner be paid an amount less than 30 percent of a figure equal to the aggregate of the annual adjustment factor multiplied by the full contract rent for each year on or after fiscal year 1980, minus the sum of the rental payments the Secretary or appropriate State agency actually approved for those years. The method provided by this subsection shall be the exclusive method by which retroactive payments, whether or not requested, may be made for projects subject to this subsection for the period from fiscal year 1980 until the regulations issued under subsection (e) take effect. For purposes of this paragraph, "debt service" shall include interest, principal, and mortgage insurance premium if any.

(2) APPLICABILITY.—

(A) IN GENERAL.—Subsection (a) shall apply with respect to any use of comparability studies referred to in such subsection occurring before the effective date of the regulations issued under subsection (e).

(B) FINAL LITIGATION.—Subsection (a) shall not apply to any project with respect to which litigation regarding the authority of the Secretary to use comparability studies to limit rental adjustments under section 8(c)(2) of the United States Housing Act of 1937 has resulted in a judgment before the effective date of this Act that is final and not appealable (including any settlement agreement).

42 USC 1437f note.

(b) 3-YEAR PAYMENTS.—The Secretary shall provide the amounts under subsection (a) over the 3-year period beginning on the effective date of the regulations issued under subsection (e). The Secretary shall provide the payments authorized under subsection (a) only to the extent approved in subsequent appropriations Acts. There are authorized to be appropriated such sums as may be necessary for this purpose.

Appropriation authorization.

Regulations.

(c) COMPARABILITY STUDIES.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(C)) is amended by inserting after the period at the end of the first sentence the following: "In implementing the limitation established under the preceding sentence, the Secretary shall establish regulations for conducting comparability studies for projects where the Secretary has reason to believe that the application of the formula adjustments under subparagraph (A) would result in such material differences. The Secretary shall conduct such studies upon the request of any owner of any project, or as the Secretary determines to be appropriate by establishing, to the extent practicable, a modified annual adjustment factor for such market area, as the Secretary shall designate, that is geographically smaller than the applicable housing area used for the establishment of the annual adjustment factor under subparagraph (A). The Secretary shall establish such modified annual adjustment factor on the basis of the results of a study conducted by the Secretary of the rents charged, and any change in such rents over the previous year, for assisted units and unassisted units of similar quality, type, and age in the smaller market area. Where the Secretary determines that such modified annual adjustment factor cannot be established or that such factor when applied to a particular project would result in material differences between the rents charged for assisted units and unassisted units of similar quality, type, and age in the same market area, the Secretary may apply an alternative methodology for conducting comparability studies in order to establish rents that are not materially different from rents charged for comparable unassisted units.".

42 USC 1437f note.

(d) DETERMINATION OF CONTRACT RENT.—(1) The Secretary shall upon the request of the project owner, make a one-time determination of the contract rent for each project owner referred to in subsection (a). The contract rent shall be the greater of the contract rent—

(A) currently approved by the Secretary under section 8(c)(2) of the United States Housing Act of 1937, or

(B) calculated in accordance with the first sentence of subsection (a)(1).

(2) All adjustments in contract rents under section 8(c)(2) of the United States Housing Act of 1937, including adjustments involving projects referred to in subsection (a), that occur beginning with the first anniversary date of the contract after the regulations issued under subsection (e) take effect shall be made in accordance with the annual adjustment and comparability provisions of sections 8(c)(2)(A) and 8(c)(2)(C) of such Act, respectively, using the one-time contract rent determination under paragraph (1).

(e) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section, including the amendments made by subsection (c) with regard to annual adjustment factors and comparability studies. The Secretary shall issue such regulations not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. 42 USC 1437f note.

(f) REPORT.—Not later than March 1, 1990, the Secretary shall report to the Congress on the feasibility and desirability, and the budgetary, legal, and administrative aspects, of adjusting contract rents under section 8(c)(2)(C) of the United States Housing Act of 1937 on the basis of any alternative methodologies that are simpler in application than individual project comparability studies.

(g) TECHNICAL AMENDMENT.—The first sentence of section 8(c)(2)(C) of the United States Housing Act of 1937 is amended by inserting ", type," after "quality". 42 USC 1437f.

Approved December 15, 1989.

LEGISLATIVE HISTORY—H.R. 1:

CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 14, considered and passed House.
Nov. 21, considered and passed Senate, amended. House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Dec. 15, Presidential statement.

○

Public Law 101-236
101st Congress

An Act

Dec. 15, 1989
[H.R. 3671]

To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO FEDERAL AVIATION ACT.

Extension of Program.—Section 905(d)(4) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1475(d)(4)) is amended by striking "2-year" and inserting "28 month".

Safety.

SEC. 2. INSTALLATION AND EVALUATION OF COLLISION AVOIDANCE SYSTEMS.

Section 601(f) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421(f)) is amended—

(1) by redesignating paragraph (3) as paragraph (6); and

(2) by inserting immediately after paragraph (2) the following new paragraphs:

"(3) Operational evaluation.—The Administrator shall institute, for a 1-year period beginning not later than December 30, 1990, a program for the operational evaluation of the collision avoidance system known as TCAS-II, in order to collect and assess safety and operational data from the civil aircraft equipped with such system. In conducting the program, the Administrator shall encourage the participation of foreign air carriers which operate civil aircraft equipped with such system.

"(4) Extension of time.—If the Administrator determines that extending the deadline contained in paragraph (2) is necessary—

"(A) to promote a safe and orderly transition to operation of a fleet of civil aircraft described in paragraph (2) which is equipped with the collision avoidance system known as TCAS-II, or

"(B) to promote other safety objectives,

the Administrator may extend such deadline for a period not to exceed 2 years.

"(5) Compatability of windshear equipment installation schedule.—The Administrator shall consider the feasibility and desirability of amending the schedule for the installation of airborne low-altitude windshear equipment in order to make such schedule compatible with the schedule for the installation of the collision avoidance system known as TCAS-II.".

Virginia.

SEC. 3. PENINSULA AIRPORT CONVEYANCE.

Subsection (b) of the first section of the Act entitled "An Act to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the Peninsula Airport

Commission, Virginia, for airport purposes", approved November 6, 1986 (Public Law 99-618; 100 Stat [illegible]490), is amended—

(1) in paragraph (3) by striking "7.5 acres" and inserting in lieu thereof "20.5 acres"; and

(2) by striking paragraph (4).

SEC. 4. EXCESS LAND DISPOSAL.

Airports.

Paragraph 14 of section 511(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)) is amended to read as follows:

"(14) if the airport operator or owner receives a grant before, on, or after December 31, 1987, for the purchase of land for airport development purposes (other than noise compatibility purposes)—

"(A) the owner or operator will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States proportionate share of the fair market value of the land;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport;

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will—

"(i) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system; or

"(ii) be paid to the Secretary for deposit in the Trust Fund if no such eligible project exists;

subject to the requirement that land shall be considered to be needed for airport purposes under this paragraph if (I) it may be needed for aeronautical purposes (including runway protection zone) or serves as noise buffer land and (II) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport, and subject to the further requirement that land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or the Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the use of such land, did not object to such use, and the land continues to be used for that purpose;".

Approved December 15, 1989.

LEGISLATIVE HISTORY—H.R. 3671:

HOUSE REPORTS: No. 101-371 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Nov. 17, considered and passed House.
Nov. 21, considered and passed Senate, amended. House concurred in Senate amendment with an amendment. Senate concurred in House amendment.

○

PUBLIC LAW 101-237—DEC. 18, 1989

VETERANS' BENEFITS AMENDMENTS OF 1989

Public Law 101-237
101st Congress

An Act

Dec. 18, 1989
[H.R. 901]

To amend title 38, United States Code, to provide a 4.7 percent cost-of-living adjustment in rates of disability compensation for veterans with service-connected disabilities and in rates of dependency and indemnity compensation for survivors of veterans dying from service-connected causes and to improve certain veterans health-care, education, housing, and memorial affairs programs; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Benefits Amendments of 1989.

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

38 USC 101 note.

(a) Short Title.—This Act may be cited as the "Veterans' Benefits Amendments of 1989".

(b) References.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DEFINITIONS.

(a) Title 38, U.S.C.—Section 101(1) is amended to read as follows:

"(1) The terms 'Secretary' and 'Administrator' mean the Secretary of Veterans Affairs, and the terms 'Department' and 'Veterans' Administration' mean the Department of Veterans Affairs.".

(b) This Act.—For purposes of this Act, the term "Secretary" means the Secretary of Veterans Affairs.

TITLE I—COMPENSATION AND PENSION

Part A—Compensation Rate Increases

SEC. 101. DISABILITY COMPENSATION.

(a) 4.7 Percent Increase.—Section 314 is amended—

(1) by striking out "$73" in subsection (a) and inserting in lieu thereof "$76";

(2) by striking out "$138" in subsection (b) and inserting in lieu thereof "$144";

(3) by striking out "$210" in subsection (c) and inserting in lieu thereof "$220";

(4) by striking out "$300" in subsection (d) and inserting in lieu thereof "$314";

(5) by striking out "$426" in subsection (e) and inserting in lieu thereof "$446";

(6) by striking out "$537" in subsection (f) and inserting in lieu thereof "$562";

(7) by striking out "$678" in subsection (g) and inserting in lieu thereof "$710";

(8) by striking out "$784" in subsection (h) and inserting in lieu thereof "$821";

(9) by striking out "$883" in subsection (i) and inserting in lieu thereof "$925";

(10) by striking out "$1,468" in subsection (j) and inserting in lieu thereof "$1,537";

(11) in subsection (k)—

(A) by striking out "$63" both places it appears and inserting in lieu thereof "$66"; and

(B) by striking out "$1,825" and "$2,559" and inserting in lieu thereof "$1,911", and "$2,679", respectively.

(12) by striking out "$1,825" in subsection (l) and inserting in lieu thereof "$1,911";

(13) by striking out "$2,012" in subsection (m) and inserting in lieu thereof "$2,107";

(14) by striking out "$2,289" in subsection (n) and inserting in lieu thereof "$2,397";

(15) by striking out "$2,559" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,679";

(16) by striking out "$1,098" and "$1,636" in subsection (r) and inserting in lieu thereof "$1,150" and "$1,713", respectively; and

(17) by striking out "$1,643" in subsection (s) and inserting in lieu thereof "$1,720"; and

38 USC 314 note.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$88" in clause (A) and inserting in lieu thereof "$92";

(2) by striking out "$148" and "$46" in clause (B) and inserting in lieu thereof "$155" and "$48", respectively;

(3) by striking out "$61" and "$46" in clause (C) and inserting in lieu thereof "$64" and "$48", respectively;

(4) by striking out "$71" in clause (D) and inserting in lieu thereof "$74";

(5) by striking out "$161" in clause (E) and inserting in lieu thereof "$169"; and

(6) by striking out "$136" in clause (F) and inserting in lieu thereof "$142";

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$395" and inserting in lieu thereof "$414".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$564	W-4	$809
E-2	581	O-1	714

E-3	597	O-2	737
E-4	634	O-3	789
E-5	651	O-4	834
E-6	666	O-5	920
E-7	698	O-6	1,038
E-8	737	O-7	1,121
E-9	[1] 770	O-8	1,229
W-1	714	O-9	1,318
W-2	742	O-10	[2] 1,446
W-3	764		

“[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $831.

“[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,550.”;

(2) by striking out “$62” in subsection (b) and inserting in lieu thereof “$65”;

(3) by striking out “$161” in subsection (c) and inserting in lieu thereof “$169”; and

(4) by striking out “$79” in subsection (d) and inserting in lieu thereof “$83”.

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 413(a) is amended—

(1) by striking out “$271” in clause (1) and inserting in lieu thereof “$284”;

(2) by striking out “$391” in clause (2) and inserting in lieu thereof “$409”;

(3) by striking out “$505” in clause (3) and inserting in lieu thereof “$529”; and

(4) by striking out “$505” and “$100” in clause (4) and inserting in lieu thereof “$529” and “$105”, respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 414 is amended—

(1) by striking out “$161” in subsection (a) and inserting in lieu thereof “$169”;

(2) by striking out “$271” in subsection (b) and inserting in lieu thereof “$284”; and

(3) by striking out “$138” in subsection (c) and inserting in lieu thereof “$144”.

38 USC 314 note.

SEC. 106. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this part shall take effect on December 1, 1989.

PART B—COMPENSATION AND PENSION PROGRAM CHANGES

SEC. 111. LIMITATIONS ON PENSIONS OF CERTAIN VETERANS RECEIVING INSTITUTIONAL CARE.

(a) PAYMENT OF PENSION.—Section 3203(a)(1) is amended—

(1) by striking out “$60” in subparagraphs (A) and (B) and inserting in lieu thereof “$90”;

(2) by striking out “second” in subparagraph (A) and inserting in lieu thereof “third”;

(3) by striking out "hospital or" each place it appears in subparagraphs (B) and (D).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on February 1, 1990.

38 USC 3203 note.

SEC. 112. EXPANSION OF CLOTHING ALLOWANCE.

Section 362 is amended—

(1) by striking out "Administrator" the first two places it appears and inserting in lieu thereof "Secretary";

(2) by striking out all after "each veteran" and inserting in lieu thereof "who—

"(1) because of a service-connected disability, wears or uses a prosthetic or orthopedic appliance (including a wheelchair) which the Secretary determines tends to wear out or tear the clothing of the veteran; or

"(2) uses medication which (A) a physician has prescribed for a skin condition which is due to a service-connected disability, and (B) the Secretary determines causes irreparable damage to the veteran's outergarments.".

SEC. 113. REDUCTION IN PERIOD OF MARRIAGE REQUIRED FOR ELIGIBILITY FOR CERTAIN SURVIVOR BENEFITS.

Section 418(c)(1) is amended by striking out "two years" and inserting in lieu thereof "one year".

SEC. 114. TEMPORARY PROGRAM OF VOCATIONAL TRAINING.

(a) REDUCTION IN MAXIMUM AGE OF NEW PENSION RECIPIENTS FOR WHOM VOCATIONAL EVALUATIONS ARE REQUIRED.—Section 524(a) is amended by striking out "50" in paragraphs (1) and (2) and inserting in lieu thereof "45".

(b) PRESERVATION OF DISABILITY RATING.—Section 524 is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and inserting after subsection (b) the following:

"(c) In the case of a veteran who has been determined to have a permanent and total non-service-connected disability and who, not later than one year after the date the veteran's eligibility for counseling under subsection (b)(3) of this section expires, secures employment within the scope of a vocational goal identified in the veteran's individualized written plan of vocational rehabilitation (or in a related field which requires reasonably developed skills and the use of some or all of the training or services furnished the veteran under such plan), the evaluation of the veteran as having a permanent and total disability may not be terminated by reason of the veteran's capacity to engage in such employment until the veteran first maintains such employment for a period of not less than 12 consecutive months.".

SEC. 115. DECISIONS AND NOTICES OF DECISIONS.

(a) IN GENERAL.—(1) Chapter 51 is amended by inserting after section 3003 the following new section:

"§ 3004. Decisions and notices of decisions

"(a)(1) In the case of a decision by the Secretary under section 211(a) of this title affecting the provision of benefits to a claimant, the Secretary shall, on a timely basis, provide to the claimant (and to the claimant's representative) notice of such decision. The notice shall include an explanation of the procedure for obtaining review of the decision.

"(2) In any case where the Secretary denies a benefit sought, the notice required by paragraph (1) of this subsection shall also include (A) a statement of the reasons for the decision, and (B) a summary of the evidence considered by the Secretary.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3003 the following new item:

"3004. Decisions and notices of decisions.".

38 USC 3004 note.

(b) EFFECTIVE DATE.—Section 3004 of title 38, United States Code, as added by subsection (a), shall apply with respect to decisions by the Secretary of Veterans Affairs made after January 31, 1990.

TITLE II—HEALTH-CARE PROVISIONS

SEC. 201. EXTENSION OF CERTAIN EXPIRING PROGRAMS.

(a) RESPITE CARE.—Section 620B(c) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

(b) STATE HOME GRANT AUTHORITY.—Section 5033(a) is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

38 USC 612 note.

(c) HOMELESS VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 501) is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

38 USC 610 note.

(d) ANNUAL REPORT ON MEANS TEST FOR FURNISHING NON-SERVICE-CONNECTED HEALTH CARE.—Section 19011(e)(1) of the Veterans' Health Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 379) is amended by striking out "and 1988" and inserting in lieu thereof ", 1988 and 1989".

38 USC 612A note.

(e) UPDATES OF REPORTS UNDER SECTION 110(e) OF PUBLIC LAW 98-528.—(1) Not later than February 1, 1990, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this subsection referred to as the "Special Committee") established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2691) shall submit concurrently to the Secretary of Veterans Affairs and the Committees on Veterans' Affairs of the Senate and House of Representatives (hereinafter in this subsection referred to as the "Committees") a report containing information updating the reports submitted by the Secretary under section 110(e) of such Act, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 60 days after receiving the report under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

SEC. 202. REIMBURSEMENT FOR EMERGENCY CARE OF VOCATIONAL REHABILITATION PARTICIPANTS.

(a) IN GENERAL.—Section 628(a)(2)(D) is amended by striking out "found to be" and all that follows through "rehabilitation training and" and inserting in lieu thereof "(i) a participant in a vocational rehabilitation program (as defined in section 1501(9) of this title), and (ii)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to hospital care and medical services received on or after the date of the enactment of this Act.

38 USC 628 note.

SEC. 203. APPOINTMENT OF CERTAIN INDIVIDUALS IN HEALTH-CARE POSITIONS.

Section 4106 is amended by adding at the end the following new subsection:

"(h)(1) The Secretary may appoint in the competitive civil service without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title) an individual who—

"(A) has a recognized degree or certificate from an accredited institution in a health-care profession or occupation; and

"(B) has successfully completed a clinical education program affiliated with the Department.

"(2) In using the authority provided by this subsection, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.".

SEC. 204. APPROVAL OF SPECIAL RATES OF PAY.

Section 4107(g)(4) is amended—

(1) in the first sentence, by striking out "ninety days prior to" and inserting in lieu thereof "45 days before"; and

(2) by adding at the end the following new sentence: "If, before such effective date, the President approves such increase, the Secretary may advance the effective date to any date not earlier than the date of the President's approval.".

SEC. 205. REVISION IN LIMITATION ON COMPENSATION OF HEALTH-CARE PERSONNEL WHO ARE RETIRED MILITARY PERSONNEL.

(a) EXTENSION TO REGISTERED NURSES.—Section 4107(i) is amended—

(1) by inserting ", and registered nurse positions," after "physician positions"; and

(2) by adding at the end the following new sentence: "The authority of the Secretary under the preceding sentence with respect to registered-nurse positions expires on September 30, 1992.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the first day of the first pay period beginning on or after the date of the enactment of this Act.

38 USC 4107 note.

SEC. 206. LEAVE SHARING AND LEAVE BANKS.

(a) IN GENERAL.—Section 4108 is amended by adding at the end the following new subsection:

Health care professionals.

"(e)(1) The Secretary shall establish a leave transfer program for the benefit of health-care professionals referred to in the matter preceding clause (1) of subsection (a) of this section. The Secretary may also establish a leave bank program for the benefit of such health-care professionals.

"(2) To the maximum extent feasible—

"(A) the leave transfer program shall provide the same or similar requirements and conditions as are provided for the program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5; and

"(B) any leave bank program established pursuant to paragraph (1) of this subsection shall be consistent with the requirements and conditions provided for agency leave bank programs in subchapter IV of such chapter.

"(3) Participation by a health-care professional in the leave transfer program established pursuant to paragraph (1) of this subsection, and in any leave bank program established pursuant to such paragraph, shall be voluntary. The Secretary may not require any health-care professional to participate in such a program.

"(4)(A) The Secretary and the Director of the Office of Personnel Management may enter into an agreement that permits health-care professionals referred to in paragraph (1) of this subsection to participate in the leave transfer program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5 or in any leave bank program established for other employees of the Department pursuant to subchapter IV of chapter 63 of title 5, or both.

"(B) Participation of such health-care professionals in a leave transfer program or a leave bank program pursuant to an agreement entered into under subparagraph (A) of this paragraph shall be subject to such requirements and conditions as may be prescribed in such agreement.

"(5) The Secretary is not required to establish a leave transfer program for any personnel permitted to participate in a leave transfer program pursuant to an agreement referred to in paragraph (4) of this subsection.".

38 USC 4108 note.

(b) IMPLEMENTATION.—(1) The Secretary shall implement the programs provided for in subsection (e) of section 4108 of title 38, United States Code (as added by subsection (a) of this section), not later than October 1, 1990.

5 USC 6302 note.

(2) The authority of the Department of Veterans Affairs under section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989, to operate a leave-transfer program for employees subject to section 4108 of title 38, United States Code, is extended until the programs provided for in subsection (e) of such section 4108 (as added by subsection (a) of this section) are implemented, but not later than October 1, 1990.

SEC. 207. HEALTH PROFESSIONAL SCHOLARSHIPS.

(a) APPLICANT PRIORITY AND EQUITABLE ALLOCATION FOR NURSING DEGREE APPLICANTS.—Section 4312(b)(5) is amended to read as follows:

"(5) In selecting applicants for the Scholarship Program, the Secretary—

"(A) shall give priority to applicants who will be entering their final year in a course of training; and

"(B) shall ensure an equitable allocation of scholarships to persons enrolled in the second year of a program leading to an associate degree in nursing.".

38 USC 4312 note.

(b) IMPLEMENTATION REQUIREMENT.—The Secretary of Veterans Affairs shall provide for the implementation of the amendment made by subsection (a) beginning with scholarships awarded under section 4312 of title 38, United States Code, during 1990.

TITLE III—HOUSING

Veterans Home Loan Indemnity and Restructuring Act of 1989.
38 USC 101 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Veterans Home Loan Indemnity and Restructuring Act of 1989".

SEC. 302. ESTABLISHMENT OF GUARANTY AND INDEMNITY FUND.

(a) NEW FUND.—(1) Section 1825 is amended to read as follows:

"§ 1825. Guaranty and Indemnity Fund

"(a) There is hereby established in the Treasury of the United States a revolving fund known as the Guaranty and Indemnity Fund.

"(b) The Guaranty and Indemnity Fund shall be available to the Secretary for all operations carried out with respect to housing loans guaranteed or insured under this chapter that are closed after December 31, 1989, except for operations with respect to loans for any purpose specified in section 1812 of this title, for loans guaranteed under section 1811(g) of this title, and for administrative expenses. For purposes of this subsection, the term 'administrative expenses' shall not include expenses incurred by the Secretary for appraisals performed after December 31, 1989, on a contractual basis in connection with the liquidation of housing loans guaranteed, insured, or made under this chapter.

"(c)(1) All fees collected under section 1829 of this title for loans with respect to which the Guaranty and Indemnity Fund is available shall be credited to such Fund.

"(2) There shall also be credited to the Guaranty and Indemnity Fund—

"(A) for each loan closed during fiscal year 1990 with respect to which the Guaranty and Indemnity Fund is available, an amount equal to 0.375 percent of the original amount of such loan for each of the fiscal years 1991 and 1992;

"(B) for each loan closed after fiscal year 1990 with respect to which the Guaranty and Indemnity Fund is available, an amount equal to 0.25 percent of the original amount of such loan for each of the three fiscal years beginning with the fiscal year in which such loan is closed;

"(C) all collections of principal and interest and the proceeds from the use or sale of property which secured a loan with respect to which the Guaranty and Indemnity Fund is available;

"(D) amounts required to be credited under subsections (a)(3) and (c)(2), including amounts credited pursuant to subsections (a)(4) and (c)(3), of section 1829 of this title;

"(E) fees collected under section 1829(b) of this title with respect to guaranteed or insured loans that are closed after December 31, 1989, and subsequently assumed; and

"(F) all income from the investments described in subsection (d) of this section.

Securities.

"(d)(1) The Secretary of the Treasury shall invest the portion of the Guaranty and Indemnity Fund that is not required to meet current payments made from such Fund, as determined by the Secretary of Veterans Affairs, in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"(2) In making investments under paragraph (1) of this subsection, the Secretary of the Treasury shall select obligations having maturities suitable to the needs of the Guaranty and Indemnity Fund, as determined by the Secretary of Veterans Affairs, and bearing interest at suitable rates, as determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(e)(1) Notwithstanding subsection (b) of this section, the Guaranty and Indemnity Fund shall be available to the Secretary, to such extent as is, or in such amounts as are, provided for in appropriation Acts and subject to paragraph (2) of this subsection, for—

Contracts.

"(A) contracts for the performance of supplementary services described in paragraph (2) of section 1824(e) of this title for which the Secretary is otherwise authorized to contract; and

"(B) the acquisition of supplementary equipment described in such paragraph,

(not including services or equipment for which the Guaranty and Indemnity Fund is available under subsection (b) of this section), as the Secretary determines would assist in ensuring the long-term stability and solvency of the Guaranty and Indemnity Fund.

"(2) The Secretary may not in any fiscal year obligate more than a total of $25,000,000 for services or equipment under this subsection and section 1824(e) of this title.".

(2) Section 1824(e)(3) is amended—

(A) by inserting "a total of" before "$25,000,000"; and

(B) by inserting "and section 1825(e) of this title" before the period.

(3)(A) The section heading of section 1824 is amended to read as follows:

"§ 1824. Loan Guaranty Revolving Fund".

(B) The table of sections at the beginning of chapter 37 is amended by striking out the items relating to sections 1824 and 1825 and inserting in lieu thereof the following:

"1824. Loan Guaranty Revolving Fund.
"1825. Guaranty and Indemnity Fund.".

(b) ANNUAL SUBMISSION OF INFORMATION.—(1) Subchapter III of chapter 37 is amended by adding at the end the following new section:

"§ 1834. Annual submission of information on the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund

"(a) In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary submits to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Secretary shall include—

"(1) a description of the operations of the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund during the fiscal year preceding the fiscal year in which such budget is submitted; and

"(2) the needs of such funds, if any, for appropriations in—

"(A) the fiscal year in which the budget is submitted; and

"(B) the fiscal year for which the budget is submitted.

"(b) The matters submitted under subsection (a) of this section shall include, with respect to each fund referred to in subsection (a), the following:

"(1) Information and financial data on the operations of the fund during the fiscal year before the fiscal year in which such matters are submitted and estimated financial data and related information on the operation of the fund for—

"(A) the fiscal year of the submission; and

"(B) the fiscal year following the fiscal year of the submission.

"(2) Estimates of the amount of revenues derived by the fund in the fiscal year preceding the fiscal year of the submission, in the fiscal year of the submission, and in the fiscal year following the fiscal year of the submission from each of the following sources:

"(A) Fees collected under section 1829(a) of this title for each category of loan guaranteed, insured, or made under this chapter or collected under section 1829(b) of this title for assumed loans.

"(B) Federal Government contributions made under clauses (A) and (B) of section 1825(c)(2) of this title.

"(C) Federal Government payments under subsections (a)(3) and (c)(2) of section 1829 of this title.

"(D) Investment income.

"(E) Sales of foreclosed properties.

"(F) Loan asset sales.

"(G) Each additional source of revenue.

"(3) Information, for each fiscal year referred to in paragraph (2) of this subsection, regarding the types of dispositions made and anticipated to be made of defaults on loans guaranteed, insured, or made under this chapter, including the cost to the fund, and the numbers, of such types of dispositions.".

(2) The table of sections at the beginning of chapter 37 is amended by inserting after the item relating to section 1833 the following new item:

"1834. Annual submission of information on the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund.".

(c) CONFORMING AMENDMENTS.—Section 1824 is amended—

(1) in subsection (b), by inserting before the period at the end of the first sentence the following: "and the operations carried out in connection with the Guaranty and Indemnity Fund established by section 1825 of this title"; and

(2) in subsection (c)—

(A) by inserting after "title" in clause (2) the following: "for loans closed before January 1, 1990, except that fees collected (A) for all loans made for any purpose specified in section 1812 of this title, or (B) under subsection (b) of such section 1829 for guaranteed or insured loans that are closed before January 1, 1990, and subsequently assumed shall also be deposited in the Fund"; and

(B) by inserting after "under this chapter" in clause (3) the following: "(other than operations for which the Guaranty and Indemnity Fund established under section 1825 of this title is available)".

SEC. 303. LOAN FEE.

(a) IN GENERAL.—Section 1829 is amended to read as follows:

"§ 1829. Loan fee

"(a)(1) Except as provided in subsection (c)(1) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, insured, or made under this chapter, and from each person obtaining a loan under section 1833(a) of this title, and no such loan may be guaranteed, insured, or made under this chapter until the fee payable under this section has been remitted to the Secretary.

"(2) The amount of such fee shall be 1.25 percent of the total loan amount, except that—

"(A) in the case of a loan made under section 1811 or 1833(a) of this title or for any purpose specified in section 1812 of this title, the amount of such fee shall be one percent of the total loan amount;

"(B) in the case of a guaranteed or insured loan for a purchase (except for a purchase referred to in section 1812(a) of this title), or for construction, with respect to which the veteran has made a downpayment of 5 percent or more, but less than 10 percent, of the total purchase price or construction cost, the amount of such fee shall be 0.75 percent of the total loan amount; and

"(C) in the case of a guaranteed or insured loan for a purchase (except for a purchase referred to in section 1812(a) of this title), or for construction, with respect to which the veteran has made a downpayment of 10 percent or more of the total purchase price or construction cost, the amount of such fee shall be 0.50 percent of the total loan amount.

"(3) Except as provided in paragraph (4) of this subsection, there shall be credited to the Guaranty and Indemnity Fund (in addition to the amount required to be credited to such Fund under section 1825(c)(2) (A) or (B) of this title), on behalf of a veteran who has made a downpayment described in paragraph (2)(C) of this subsection, an amount equal to 0.25 percent of the total loan amount for the fiscal year in which the loan is closed and for the following fiscal year.

"(4) Credits to the Guaranty and Indemnity Fund under paragraph (3) of this subsection with respect to loans guaranteed or insured under this chapter that are closed during fiscal year 1990 shall be made in October 1990 and October 1991.

"(5) The amount of the fee to be collected under paragraph (1) of this subsection may be included in the loan and paid from the proceeds thereof.

"(b) Except as provided in subsection (c) of this section, a fee shall be collected from a person assuming a loan to which section 1814 of this title applies. The amount of the fee shall be equal to 0.50 percent of the balance of the loan on the date of the transfer of the property.

"(c)(1) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

"(2) There shall be credited to the Guaranty and Indemnity Fund (in addition to the amount required to be credited to such Fund under section 1825(c)(2) (A) or (B) of this title and subsection (a)(3) of this section), on behalf of a veteran or surviving spouse described in paragraph (1) of this subsection, an amount equal to the fee that, except for paragraph (1) of this subsection, would be collected from such veteran or surviving spouse.

"(3) Credits to the Guaranty and Indemnity Fund under paragraph (2) of this subsection with respect to loans guaranteed, insured, or made under this chapter that are closed during fiscal year 1990 shall be made in October 1990.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

38 USC 1829 note.

(c) FEE COLLECTION THROUGH 1989.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall collect fees under section 1829 of title 38, United States Code, through December 31, 1989.

38 USC 1829 note.

SEC. 304. INDEMNIFICATION AFTER DEFAULT.

(a) IN GENERAL.—Section 1803 is amended by adding at the end the following new subsection:

Fraud.

"(e)(1) Except as provided in paragraph (2) of this subsection, an individual who pays a fee under section 1829 of this title, or who is exempted under section 1829(c)(1) of this title from paying such fee, with respect to a housing loan guaranteed or insured under this chapter that is closed after December 31, 1989, shall have no liability to the Secretary with respect to the loan for any loss resulting from any default of such individual except in the case of fraud, misrepresentation, or bad faith by such individual in obtaining the loan or in connection with the loan default.

"(2) The exemption from liability provided by paragraph (1) of this subsection shall not apply to—

"(A) an individual from whom a fee is collected (or who is exempted from such fee) under section 1829(b) of this title; or

"(B) a loan made for any purpose specified in section 1812 of this title.".

(b) CONFORMING AMENDMENT.—The last sentence of section 1832(a)(1) is amended by striking out "If" and inserting in lieu thereof "Except as provided in section 1803(e) of this title, if".

SEC. 305. SALE OF VENDEE LOANS.

(a) IN GENERAL.—Section 1833 is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by striking out "Before October 1, 1990," and inserting in lieu thereof "Subject to subparagraph (C) of this paragraph,";

(B) in subparagraph (B), by striking out "occurring before October 1, 1990"; and

(C) in subparagraph (C), by striking out "October 1, 1990," and inserting in lieu thereof "October 1, 1989,";

(2) in subsection (a)(6), by striking out "October 1" and inserting in lieu thereof "December 31"; and

(3) by adding at the end the following new subsection:

Real property.

"(e) Notwithstanding any other provision of law, the amount received from the sale of any note evidencing a loan secured by real property described in subsection (a)(1) of this section shall be credited, without any reduction and for the fiscal year in which the amount is received, as offsetting collections of—

"(1) the revolving fund for which a fee under section 1829 of this title was collected (or was exempted from being collected) at the time of the original guaranty of the loan that was secured by the same property; or

"(2) in any case in which there was no requirement of (or exemption from) a fee at the time of the original guaranty of the loan that was secured by the same property, the Loan Guaranty Revolving Fund; and

the total so credited to any revolving fund for a fiscal year shall offset outlays attributed to such revolving fund during such fiscal year.".

38 USC 1833 note.

(b) EFFECTIVE DATES.—(1) If, before the date and time of the enactment of this Act, no provision of law has been enacted amending section 1833 of title 38, United States Code, by adding a new subsection (e) with a text substantively identical to the text of the new subsection (e) added to such section 1833 by subsection (a)(3) of this section, the provisions of subsection (a)(1) of this section amending subsection (a)(3) of such section 1833 shall not take effect.

(2) Subsection (e) of section 1833 of such title 38, as added by subsection (a)(3), shall apply with respect to amounts referred to in such subsection (e) received after September 30, 1989.

SEC. 306. INCREASE IN ENTITLEMENT AMOUNT.

(a) INCREASED ENTITLEMENT.—Section 1803(a)(1) is amended—

(1) in subparagraph (A)(i)—

(A) by striking out "or" after the semicolon in subclause (I); and

(B) by striking out subclause (II) and inserting in lieu thereof the following:

"(II) in the case of any loan of more than $45,000, but not more than $56,250, $22,500;

"(III) in the case of any loan of more than $56,250, but not more than $144,000, the lesser of $36,000 or 40 percent of the loan; or

"(IV) in the case of any loan of more than $144,000 for a purpose specified in clause (1), (2), (3), or (6) of section 1810(a) of this title, the lesser of $46,000 or 25 percent of the loan; or"; and

(2) in subparagraph (B), by striking out "$36,000" and inserting in lieu thereof "$36,000, or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, $46,000,".

38 USC 1803 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only with respect to loans closed after such date.

SEC. 307. NOTIFICATION REQUIREMENT.

Section 1832(a) is amended by adding at the end the following:

"(5) In the event of default in the payment of any loan guaranteed or insured under this chapter in which a partial payment has been tendered by the veteran concerned and refused by the holder, the holder of the obligation shall notify the Secretary as soon as such payment has been refused. The Secretary may require that any such notification include a statement of the circumstances of the default, the amount tendered, the amount of the indebtedness on the date of the tender, and the reasons for the holder's refusal.".

SEC. 308. NO-BID FORMULA.

(a) EXCLUSION OF INTEREST COSTS.—Section 1832(c)(1)(C)(ii) is amended by inserting before the period the following: ", excluding any amount attributed to the cost to the Government of borrowing funds".

(b) **Extension.**—(1) Section 1832(c)(11) of such title is amended by striking out "October 1, 1989" and inserting in lieu thereof "October 1, 1991".

(2) The amendment made by paragraph (1) shall take effect as of October 1, 1989.

Effective date.
38 USC 1832 note.

SEC. 309. REFINANCING LOANS.

(a) **Repeal of Limitation on Amount of Refinancing Loan.**—Section 1810 is amended by striking out subsection (h).

(b) **Conditions for Guaranteeing or Making a Refinancing Loan.**—Subsection (b) of section 1810 is amended—

(1) in clause (5)—

(A) by inserting "except in the case of a loan described in clause (7) or (8) of this subsection," after "(5)"; and

(B) by striking out "and," at the end;

(2) by striking out the period at the end of clause (6) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(7) in the case of a loan (other than a loan made for a purpose specified in subsection (a)(8) of this section) that is made to refinance—

"(A) a construction loan,

"(B) an installment land sales contract, or

"(C) a loan assumed by the veteran that provides for a lower interest rate than the loan being refinanced,

the amount of the loan to be guaranteed or made does not exceed the lesser of—

"(i) the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 1831 of this title; or

"(ii) the sum of the outstanding balance on the loan to be refinanced and the closing costs (including discounts) actually paid by the veteran, as specified by the Secretary in regulations; and

"(8) in the case of a loan to refinance a loan (other than a loan or installment sales contract described in clause (7) of this subsection or a loan made for a purpose specified in subsection (a)(8) of this section), the amount of the loan to be guaranteed or made does not exceed 90 percent of the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 1831 of this title.".

SEC. 310. COMPUTATION OF ENTITLEMENT AMOUNT.

Section 1802(b) is amended—

(1) by striking out "or" at the end of clause (1)(B);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; or"; and

(3) by inserting after clause (2) the following new clause: "(3)(A) the loan has been repaid in full; and

"(B) the loan for which the veteran seeks to use entitlement under this chapter is secured by the same property which secured the loan referred to in subparagraph (A) of this paragraph.".

SEC. 311. WAIVER OF INDEBTEDNESS TO THE UNITED STATES.

Section 3102 is amended—

(1) in subsection (b), by striking out "may" and inserting in lieu thereof "shall, except as provided in subsection (c) of this section,"; and

(2) in subsection (c)—

(A) by striking out "The" and all that follows through "thereon)" and inserting in lieu thereof "The recovery of any payment or the collection of any indebtedness (or any interest thereon) may not be waived under this section"; and

(B) by striking out ", material fault, or lack of good faith" and inserting in lieu thereof "or bad faith".

SEC. 312. STUDY OF HOME LOANS TO NATIVE-AMERICAN VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs and the Secretary of the Interior shall jointly conduct a study to determine the following:

(1) The extent to which veterans who are Native Americans living on Native-American trust lands participate in the Department of Veterans Affairs home loan guaranty program under chapter 37 of title 38, United States Code.

(2) The level of participation of such veterans in such program, whether such participation is lower than the level of participation of all veterans and, if so, the reasons for the lower level of participation, including any reasons relating to the structure of the home loan guaranty program, the secondary mortgage market, the willingness of lenders to make home loans on trust land, cultural factors, and attitudinal factors.

(3) The legislative, regulatory, and administrative actions necessary, if any, to improve the access of the veterans referred to in paragraph (1) to benefits under chapter 37 of title 38, United States Code.

(4) Whether it would be desirable, feasible, and equitable to utilize the direct home loan authority under section 1811 of title 38, United States Code, to promote increased home ownership among such veterans.

(b) CONSIDERATIONS.—In conducting the study, the Secretaries shall consider—

(1) the concerns and recommendations of the Advisory Committee on Native-American Veterans contained in the reports submitted by that committee pursuant to section 19032(f) of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388);

(2) the experience of the Bureau of Indian Affairs and the Department of Housing and Urban Development in developing and carrying out programs designed to meet the home financing needs of Native Americans; and

(3) any experience of private-sector lending institutions in making loans on trust land.

(c) REPORT.—Not later than June 1, 1990, the Secretaries shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study conducted under subsection (a).

(d) DEFINITIONS.—For the purposes of this section—

(1) the term "Native-American trust land" means any land that—

(A) is held in trust by the United States for Native Americans;

(B) is subject to restrictions on alienation imposed by the United States on Indian lands;

(C) is owned by a Regional Corporation or a village corporation, as such terms are defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); or

(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary of Veterans Affairs; and

(2) the term "Native American" means—

(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

(B) a Native Hawaiian, as defined in section 8 of the Native Hawaiian Health Care Act of 1988 (Public Law 100-579; 102 Stat. 2921);

(C) an Alaska Native, within the meaning provided for the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

SEC. 313. CLARIFYING AND TECHNICAL AMENDMENTS.

(a) Clarifying Amendment.—Section 1801(b) is amended by adding at the end the following new paragraph:

"(4) The term 'veteran' also includes an individual serving on active duty.".

(b) Technical Amendments.—Title 38 is amended as follows:

(1) Chapters 23, 24, and 37 are amended by striking out "Administrator" and "Administrator's" each place such terms appear (other than in sections 906(e)(2) and 1812(h)(2)(B) and in section 1845(a) the third place "Administrator" appears) and inserting in lieu thereof "Secretary" and "Secretary's", respectively.

(2) Subchapter III of chapter 37 is amended by striking out "Veterans' Administration" and "Veterans' Administration's" each place such terms appear and inserting in lieu thereof "Department of Veterans Affairs" and "Department of Veterans Affairs' ", respectively.

(3) Section 906(e)(2) is amended by striking out "Administrator or the Secretary" and inserting in lieu thereof "Secretary of Veterans Affairs or Secretary of the Army".

(4) Section 1005(a) is amended by inserting "of the Interior" after "Secretary" the second place it appears.

(5) Section 1009(b) is amended by inserting "of the Army" after "Secretary".

(6) Section 1803(c)(1) is amended by inserting "of Housing and Urban Development" after "Secretary" the second place it appears.

(7) Section 1812(h)(2)(B) is amended—

(A) by striking out "Secretary pursuant" and inserting in lieu thereof "Secretary of Housing and Urban Development pursuant"; and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary of Veterans Affairs".

(8) Section 1823(a) is amended by inserting "of the Treasury" after "Secretary" the last place it appears.

(9) Section 1823(d)(2) is amended by inserting "of the Treasury" after "Secretary".

Veterans Education and Employment Amendments of 1989.
38 USC 101 note.

TITLE IV—EDUCATION AND EMPLOYMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Veterans Education and Employment Amendments of 1989".

SEC. 402. RATES OF REHABILITATION SUBSISTENCE ALLOWANCES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) In General.—The table contained in section 1508(b) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$333	$413	$486	$35
Three-quarter time	$250	$310	$364	$27
Half-time	$167	$207	$244	$18
Farm cooperative, apprentice, or other on-job training:				
Full-time	$291	$352	$405	$26
Extended evaluation:				
Full-time	$333	$413	$486	$35
Independent living training:				
Full-time	$333	$413	$486	$35
Three-quarter time	$250	$310	$364	$27
Half-time	$167	$207	$244	$18".

38 USC 1508 note.

(b) Effective Date.—The amendment made by this section shall take effect on January 1, 1990.

SEC. 403. RATES OF EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS.

(a) In General.—Chapter 35 is amended—

(1) in section 1732(a)(1), by striking out "computed" and all that follows through the end of the paragraph and inserting in lieu thereof "paid at the monthly rate of $404 for full-time, $304 for three-quarter-time, or $202 for half-time pursuit.";

(2) in section 1732(a)(2), by striking out "computed" and all that follows through the end of the paragraph and inserting in lieu thereof "paid at the rate of (A) the established charges for tuition and fees that the educational institution involved re-

quires similarly circumstanced nonveterans enrolled in the same program to pay, or (B) $404 per month for a full-time course, whichever is the lesser.";

(3) in section 1732(b), by striking out "$304" and inserting in lieu thereof "$327";

(4) in section 1732(c)(2), by striking out "computed" and all that follows through the end of the paragraph and inserting in lieu thereof "$327 for full-time, $245 for three-quarter-time, and $163 for half-time pursuit.";

(5) by amending section 1732(c)(3) to read as follows:

"(3) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (a)(2) of this section for less than half-time but more than quarter-time pursuit. If the entire training is to be pursued by independent study, the amount of the eligible person's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which such person is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Secretary of Veterans Affairs, for resident training. An eligible person's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.";

(6) in section 1732(c)(4), by striking out "section 1682(e) of this title" and inserting in lieu thereof "paragraph (3) of this subsection";

(7) in section 1732(e), by inserting before the period the following: ", except that the references therein to the monthly educational assistance allowance prescribed for a veteran with no dependents shall be deemed to refer to the applicable allowance payable to an eligible person under corresponding provisions of this chapter or chapter 36 of this title, as determined by the Secretary of Veterans Affairs";

(8) in section 1733(a)(1), by striking out "benefits" and all that follows through the end of the paragraph and inserting in lieu thereof "assistance provided an eligible veteran under section 1691(a) (if pursued in a State) of this title and be paid an educational assistance allowance therefor in the manner prescribed by section 1691(b) of this title, except that the corresponding rate provisions of this chapter shall apply, as determined by the Secretary of Veterans Affairs, to such pursuit by an eligible person.";

(9) in section 1734(b), by striking out "1786 of this title" and inserting in lieu thereof "1786 (other than subsection (a)(2)) of this title and the period of such spouse's entitlement shall be charged with one month for each $404 which is paid to the

spouse as an educational assistance allowance for such course"; and

(10) in section 1742(a), by striking out "$376", "$119" (each place it appears), and "$12.58" and inserting in lieu thereof "$404", "$127", and "$13.46", respectively.

(b) Apprenticeship.—Section 1787(b)(2) is amended by striking out "computed" and all that follows through the end of the paragraph and inserting in lieu thereof "$294 for the first six months, $220 for the second six months, $146 for the third six months, and $73 for the fourth and any succeeding six-month periods of training.".

38 USC 1732 note.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 404. PROVISION FOR PERMANENT PROGRAM OF INDEPENDENT LIVING SERVICES AND ASSISTANCE.

Section 1520 is amended—

(1) by striking out subsection (b);

(2) by striking out paragraph (5) of subsection (a);

(3) by redesignating paragraphs (2), (3), (4), (6) and (7) of subsection (a) as subsections (b), (c), (d), (e) and (f), respectively;

(4) in subsection (a)—

(A) by striking out "(1) During fiscal years 1982 through 1989, the" and inserting in lieu thereof "The";

(B) by striking out "paragraph (7) of this subsection" and inserting in lieu thereof "subsection (f) of this section"; and

(C) by striking out "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (b) of this section";

(5) in subsection (b), as redesignated by clause (3), by striking out "and who is selected" and all that follows through "subsection";

(6) in subsection (c), as redesignated by clause (3), by striking out "paragraph (2) of this subsection" and inserting in lieu thereof "subsection (b) of this section";

(7) in subsection (e), as redesignated by clause (3), by striking out "of the fiscal years 1982 through 1989" and inserting in lieu thereof "fiscal year"; and

(8) in subsection (f), as redesignated by clause (3)—

(A) by striking out "paragraph" and inserting in lieu thereof "subsection"; and

(B) by striking out "(A)" and "(B)" and inserting in lieu thereof "(1)" and "(2)", respectively.

SEC. 405. VETERANS' AND RESERVISTS' WORK-STUDY PROGRAM.

(a) Criteria for Determining Work-Study Allowance.—(1) Section 1685(a) is amended—

(A) in the second sentence, by striking out "Such" and all that follows through "other applicable enrollment period," and inserting in lieu thereof "Such work-study allowance shall be paid in an amount equal to the applicable hourly minimum wage times the number of hours worked during the applicable period, in return for such individual's agreement to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period,";

(B) by striking out the third and fourth sentences;

(C) by inserting "(1)" after "(a)"; and

(D) by adding at the end the following new paragraph:

"(2) For the purposes of paragraph (1) of this subsection, the term 'applicable hourly minimum wage' means (A) the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)), or (B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in clause (A) and the Secretary has made a determination to pay such higher wage.".

(2) Section 1685(b) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a)(1)".

(b) SELECTED RESERVISTS' WORK-STUDY ASSIGNMENTS.—The second sentence of section 1685(a), as amended by subsection (a)(1)(A), is further amended—

(1) in clause (3), by striking out "or" at the end; and

(2) by striking out the period at the end and inserting in lieu thereof ", or (5) in the case of an individual who is receiving educational assistance under chapter 106 of title 10, activities relating to the administration of such chapter at Department of Defense facilities.".

(c) ELIGIBILITY.—Section 1685(b) is amended—

(1) in the first sentence by striking out "veteran-students who are pursuing" and all that follows through the period and inserting in lieu thereof "individuals who are pursuing programs of rehabilitation, education, or training under chapter 30, 31, 32, or 34 of this title or chapter 106 of title 10, at a rate equal to at least three-quarters of that required of a full-time student."; and

(2) in the last sentence by striking out "the veteran ceases to be" through "the veteran" and inserting in lieu thereof "an individual ceases to be at least a three-quarter-time student before completing such agreement, the individual".

(d) TECHNICAL AMENDMENTS.—(1) Section 1685(b) is amended by striking out "per centum" and inserting in lieu thereof "percent".

(2) Section 1685 is amended—

(A) by striking out "Veteran-students" in subsection (a) and inserting in lieu thereof "Individuals";

(B) by striking out "veteran-students" each place it appears and inserting in lieu thereof "individuals";

(C) by striking out "A veteran-student" in subsection (a) and inserting in lieu thereof "An individual";

(D) by striking out "veteran-student's" in subsection (a) and inserting in lieu thereof "individual's";

(E) by striking out "veterans" in subsection (c) and inserting in lieu thereof "individuals";

(F) by striking out "veteran" each place it appears, other than in subsection (c)(4), and inserting in lieu thereof "individual"; and

(G) by striking out "veteran's" in subsection (c)(2) and inserting in lieu thereof "individual's".

(3) Section 2136(b) of title 10, United States Code, is amended by striking out "and 1683" and inserting in lieu thereof "1683, and 1685".

(4)(A) The section heading of section 1685 is amended to read as follows:

"§ 1685. Work-study allowance".

(B) The table of sections at the beginning of chapter 34 is amended by striking out the item for section 1685 and inserting in lieu thereof the following:

"1685. Work-study allowance.".

10 USC 2136 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on May 1, 1990, and shall apply to services performed on or after that date.

SEC. 406. WORK-STUDY PROGRAM FOR SURVIVORS AND DEPENDENTS.

(a) IN GENERAL.—(1) Subchapter IV of chapter 35 is amended by inserting after section 1736 the following new section:

"§ 1737. Work-study allowance

"(a) Subject to subsection (b) of this section, the Secretary shall utilize, in connection with the activities described in section 1685(a) of this title, the services of any eligible person who is pursuing, in a State, at least a three-quarter-time program of education (other than a course of special restorative training) and shall pay to such person an additional educational assistance allowance (hereafter in this section referred to as 'work-study allowance') in return for such eligible person's agreement to perform such services. The amount of the work-study allowance shall be determined in accordance with section 1685(a) of this title.

"(b) The Secretary's utilization of, and payment of a work-study allowance for, the services of an eligible person pursuant to subsection (a) of this section shall be subject to the same requirements, terms, and conditions as are set out in section 1685 of this title with regard to individuals pursuing at least three-quarter-time programs of education referred to in subsection (b) of such section.".

(2) The table of sections at the beginning of chapter 35 is amended by inserting after the item relating to section 1736 the following new item:

"1737. Work-study allowance.".

38 USC 1737 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on May 1, 1990.

SEC. 407. EXTENSION AND EXPANSION OF THE VETERANS' READJUSTMENT APPOINTMENT AUTHORITY.

(a) EXTENSION OF AUTHORITY.—(1) Paragraph (2) of section 2014(b) is redesignated as paragraph (4) and is amended by striking out "1989" and inserting in lieu thereof "1993".

(2) Section 2011(2)(B) is amended by inserting before the period the following: "except for purposes of section 2014 of this title".

Vietnam.

(b) ELIGIBILITY.—(1) Section 2014(a)(1) is amended by striking out "qualified disabled veterans and veterans of the Vietnam era" and inserting in lieu thereof "certain veterans of the Vietnam era and veterans of the post-Vietnam era who are qualified for such employment and advancement".

(2) Subsection (b) of section 2014 is amended—

(A) in paragraph (1)—

(i) by striking out "veterans of the Vietnam era" and inserting in lieu thereof "veterans referred to in paragraph (2) of this subsection";

(ii) in clause (A), by inserting the following before the semicolon: "or in the case of a veteran referred to in paragraph (2)(A) of this subsection, the level of GS-11 or its equivalent";

(iii) by striking out clause (B) and inserting in lieu thereof the following:

"(B) a veteran referred to in paragraph (2) of this subsection shall be eligible for such an appointment during (i) the four-year period beginning on the date of the veteran's last discharge or release from active duty, or (ii) the two-year period beginning on the date of the enactment of the Veterans Education and Employment Amendments of 1989, whichever ends later;";

(iv) in clause (C), by inserting "referred to in paragraph (2) of this subsection" after "a veteran of the Vietnam era";

(v) by striking out "and" at the end of clause (C);

(vi) by striking out the period at the end of clause (D) and inserting in lieu thereof "; and"; and

(vii) by adding after clause (D) the following new clauses:

"(E) the requirement of an educational or training program for a veteran receiving such an appointment shall not apply if the veteran has 15 years or more of education; and

"(F) in the case of a veteran who is not a disabled veteran, the veteran may not have completed more than 16 years of education at the time of the veteran's appointment."; and

(B) by inserting after paragraph (1) the following new paragraphs:

"(2) This subsection applies to—

"(A) a veteran of the Vietnam era who—

"(i) has a service-connected disability; or

"(ii) during such era, served on active duty in the Armed Forces in a campaign or expedition for which a campaign badge has been authorized; and

"(B) a veteran who served on active duty after the Vietnam era.

"(3) For purposes of paragraph (1)(B)(i) of this subsection, the last discharge or release from a period of active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title.".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1990. 38 USC 2011 note.

SEC. 408. PILOT PROGRAM TO FURNISH EMPLOYMENT AND TRAINING INFORMATION AND SERVICES TO MEMBERS OF THE ARMED FORCES SEPARATING FROM THE ARMED FORCES.

38 USC 2000 note.

(a) Requirement for Program.—During the three-year period beginning on January 1, 1990, the Secretary of Labor (hereafter in this section referred to as the "Secretary"), in conjunction with the Secretary of Veterans Affairs and the Secretary of Defense, shall conduct a pilot program to furnish employment and training information and services to members of the Armed Forces within 180 days before such members are separated from the Armed Forces.

(b) Areas To Be Covered by the Program.—The Secretary shall conduct the pilot program in at least five, but not more than ten, geographically dispersed States in which the Secretary determines that employment and training services to eligible veterans will not be unduly limited by the provision of such services to members of the Armed Forces under the pilot program.

(c) UTILIZATION OF SPECIFIC PERSONNEL.—The Secretary shall utilize disabled veterans' outreach program specialists or local veterans' employment representatives to the maximum extent feasible to furnish employment and training information and services under the pilot program.

(d) REPORT.—Not later than May 1, 1992, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the findings and conclusions reached as a result of such pilot program.

SEC. 409. SECONDARY SCHOOL REQUIREMENTS FOR MONTGOMERY GI BILL ELIGIBILITY.

Sections 1411(a)(2) and 1412(a)(2) are amended—

(1) by inserting "(i)" after "except that"; and

(2) by inserting before "; and" at the end the following: ", and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty".

SEC. 410. PROHIBITION ON RECEIVING CREDIT UNDER TWO PROGRAMS.

Section 1621 is amended by adding at the end the following:

"(f) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by this chapter and the program established by chapter 106 of title 10 but shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) the program to which such service is to be credited.".

SEC. 411. ACCEPTING SCHOOL CERTIFICATION FOR RENEWAL OF EDUCATIONAL BENEFITS AFTER UNSATISFACTORY PROGRESS.

(a) VETERANS' EDUCATIONAL ASSISTANCE.—Section 1674 is amended by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) the veteran will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such veteran's reenrollment and certified it to the Department of Veterans Affairs; or

"(2) in the case of a proposed change of either educational institution or program of education by the veteran—

"(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

"(B) the program proposed to be pursued is suitable to the veteran's aptitudes, interests, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 1791 of this title.".

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 1724 is amended by striking out clauses (1) and (2) and inserting in lieu thereof the following:

"(1) the eligible person will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such eligible person's reenrollment and certified it to the Department of Veterans Affairs; or

"(2) in the case of a proposed change of either educational institution or program of education by the eligible person—

"(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

"(B) the program proposed to be pursued is suitable to the eligible person's aptitudes, interests, and abilities; and

"(C) if a proposed change of program is involved, the change meets the requirements for approval under section 1791 of this title.".

SEC. 412. UNIFORMITY OF ATTENDANCE REQUIREMENT.

(a) In General.—Section 1780(a) is amended—

(1) in clause (1) of the second sentence, by striking out "enrolled in a course" through "1788(a)(7) of this title,";

(2) by striking out clause (2) of the second sentence;

(3) by redesignating clauses (3), (4), and (5) of the second sentence as clauses (2), (3), and (4), respectively;

(4) in the third sentence, by striking out "set forth in clause (1) or (2)" and inserting in lieu thereof "set forth in clause (1)";

(5) in subclause (A) of the third sentence, by striking out ", and such periods" through "subsection"; and

(6) in subclauses (B) and (C) of the third sentence by striking out ", but such periods" through "subsection".

(b) Conforming Amendments.—Section 1674 and section 1724 are each amended by striking out "conduct" in the first sentence and inserting in lieu thereof "attendance, conduct,".

SEC. 413. PROGRAM ADMINISTRATION.

(a) Section 1788 is amended—

(1) in subsection (a), by inserting after "three hours" in clause (C) of the penultimate sentence the following: "(or three 50-minute periods)"; and

(2) in subsection (c), by inserting after "three hours" in the second sentence the following: "(or three 50-minute periods)".

38 USC 1434 note.

(b) Through July 1, 1990, no provision of law shall preclude the Department of Veterans Affairs, in making determinations of the active-duty or Selected Reserve status, or the character of service, of individuals receiving benefits under chapter 30 or 32 of title 38, United States Code, or chapter 106 of title 10, United States Code, from continuing to use any category of information provided by the Department of Defense or Department of Transportation that the Department of Veterans Affairs was using prior to the date of the enactment of this Act, if the Secretary of Veterans Affairs determines that the information has proven to be sufficiently reliable in making such determinations.

SEC. 414. FUNDING FOR STATE APPROVING AGENCIES FOR TRAINING CURRICULUM DEVELOPMENT.

Section 1774(a) is amended—

(1) in paragraph (2)(A), by striking out "section and for" and inserting in lieu thereof "section, for expenses approved by the Secretary that are incurred in carrying out activities described in section 1774A(a)(4) of this title (except for administrative overhead expenses allocated to such activities), and for"; and

(2) in paragraph (2)(C), by inserting before the period the following: "and the amount of expenses approved by the Secretary that are incurred in carrying out activities described in section 1774A(a)(4) of this title for such period (except for administrative overhead expenses allocated to such activities)".

SEC. 415. PROOF OF SATISFACTORY PURSUIT OF A PROGRAM OF EDUCATION.

(a) WITHHOLDING OF BENEFITS; FORM OF PROOF.—Section 1780(g) is amended by striking out "the Administrator is authorized" in the second sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "the Secretary may withhold payment of benefits to such eligible veteran or eligible person until the required proof is received and the amount of the payment is appropriately adjusted. The Secretary may accept such veteran's or person's monthly certification of enrollment in and satisfactory pursuit of such veteran's or person's program as sufficient proof of the certified matters.".

(b) CONFORMING AMENDMENTS.—Section 1434 is amended—

(1) in subsection (a)(1), by striking out "1780(g),";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 416. REPORTING FEES.

(a) IN GENERAL.—Section 1784 is amended—

(1) in subsection (a)(1), by striking out "chapter 34" and inserting in lieu thereof "chapter 31, 34,";

(2) in subsection (b), by striking out "chapters 34" and inserting in lieu thereof "chapters 31, 34"; and

(3) in subsection (c), by striking out "chapter 34" each place it appears and inserting in lieu thereof "chapter 31, 34,".

38 USC 1784 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

SEC. 417. CLOCK-HOUR MEASUREMENT OF CERTAIN UNIT COURSES OR SUBJECTS CREDITABLE TOWARD A STANDARD COLLEGE DEGREE.

Section 1788(e) is amended to read as follows:

"(e)(1) For the purpose of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course—

"(A) which is offered by an institution of higher learning, and

"(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter nours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2) of this subsection. Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

"(2) For the purpose of determining the clock-hour equivalency described in paragraph (1) of this subsection, the total number of credit hours being pursued will be multiplied by the factor resulting from dividing the number of clock hours which constitute full time under clause (1) or (2) of subsection (a) of this section, as appropriate, by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.".

SEC. 418. DEPARTMENT OF VETERANS AFFAIRS APPROVAL OF CERTAIN COURSES.

Section 1789(b)(6)(B) is amended by inserting "and members of the Selected Reserve of the Ready Reserve eligible for educational assistance under chapter 106 of title 10;" after "dependents".

SEC. 419. EFFECTIVE DATE OF ADJUSTMENTS OF EDUCATIONAL BENEFITS.

Section 3013 is amended—

(1) by striking out "Effective" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, effective"; and

(2) by adding at the end the following new subsection:

"(b) The effective date of an adjustment of benefits under any chapter referred to in subsection (a) of this section, if made on the basis of a certification made by the veteran or person and accepted by the Secretary under section 1780(g) of this title, shall be the date of the change.".

SEC. 420. DETERMINATION OF DELIMITING PERIOD.

(a) MINIMUM REQUIREMENT FOR ACTIVE DUTY SERVICE.—(1) Section 1431 is amended—

(A) by adding at the end the following new subsection:

"(g) For purposes of subsection (a) of this section, an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."; and

(B) in subsection (a), by inserting ", and subject to subsection (g)," before "of this section," in the material preceding clause (1).

(2) Section 1632(a) is amended—

(A) by adding at the end the following new paragraph:

"(4) For purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."; and

(B) in paragraph (1), by inserting ", and subject to paragraph (4)," before "of this subsection,".

(3) Section 1662(a) is amended—

(A) by adding at the end the following new paragraph:

"(4) For purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 1411(a)(1)(A)(ii)(III) of this title."; and

(B) in paragraph (1), by striking out "No" and inserting in lieu thereof "Subject to paragraph (4) of this subsection, no".

(b) SPECIAL RULE.—Section 1431(e) is amended—

(1) by striking out "(e) In" and inserting in lieu thereof "(e)(1) Except as provided in paragraph (2) of this subsection, in"; and

(2) by adding at the end the following:

"(2) In the case of an individual to which paragraph (1) of this subsection is applicable and who is described in section 1652(a)(1)(B) of this title, the 10-year period prescribed in subsection (a) of this section shall not be reduced by any period in 1977 before the individual began serving on active duty.".

38 USC 241 note.

SEC. 421. INFORMATION TO ASSIST VETERANS RECEIVING EDUCATION BENEFITS.

(a) IN GENERAL.—For the purpose of assisting individuals receiving education benefits from the Department of Veterans Affairs, the Secretary of Veterans Affairs shall prepare, and update periodically, a document containing a detailed description of the benefits, limitations, procedures, requirements, and other important aspects of the education programs administered by the Department.

(b) DISTRIBUTION.—The Secretary shall, beginning in fiscal year 1990 but not before July 1, 1990, distribute copies of such document—

(1) to each individual applying for benefits under an education program administered by the Department of Veterans Affairs and to each such individual at least annually in the years thereafter in which the individual receives such benefits;

(2) to education and training institution officials on at least an annual basis; and

(3) upon request, to other individuals significantly affected by education programs administered by the Secretary, including military education personnel.

(c) FUNDING.—The Secretary shall use funds appropriated to the readjustment benefits account of the Department to carry out this section.

SEC. 422. EDUCATIONAL ASSISTANCE FOR FLIGHT TRAINING.

(a) THE MONTGOMERY GI BILL ACTIVE DUTY PROGRAM.—(1) Section 1434 is amended by inserting after subsection (c), as added by section 423(a)(6)(B), the following new subsection:

"(d)(1) The Secretary may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 1673(b) of this title) by an individual entitled to basic educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the

Federal Aviation Administration and the State approving agency.

"(2) This subsection shall not apply to a course of flight training that commences on or after October 1, 1994.".

(2) Section 1432 is amended by inserting at the end the following new subsection:

"(f)(1) Notwithstanding subsection (a) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 1434(d) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees (other than tuition and fees charged for or attributable to solo flying hours) which similarly circumstanced nonveterans enrolled in the same flight course are required to pay.

"(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Secretary has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The number of months of entitlement charged in the case of any individual for a program of education described in paragraph (1) of this subsection shall be equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such program by the monthly rate of educational assistance which, except for paragraph (1) of this subsection, such individual would otherwise be paid under subsection (a)(1), (b)(1), or (c) of section 1415 of this title, as the case may be.".

(b) THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.—(1) Section 2136 of title 10, United States Code, is amended by adding the following new subsection:

"(c)(1) The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 1673(b) of title 38) by an individual entitled to educational assistance under this chapter if—

"(A) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

"(B) the individual possesses a valid private pilot's license and meets the medical requirements necessary for a commercial pilot's license; and

"(C) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

"(2) This subsection shall not apply to a course of flight training that commences on or after October 1, 1994.".

(2) Section 2131 of such title is amended—

(A) in subsection (b), by striking out "(f)" and inserting in lieu thereof "(g)"; and

(B) by adding at the end the following new subsection:

"(g)(1) Each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 2136(c) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees (other than tuition and fees charged for or attributable to solo flying hours) which similarly circumstanced nonveterans enrolled in the same flight course are required to pay.

"(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Secretary has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

"(3) The period of entitlement of an individual pursuing a program of education described in paragraph (1) shall be charged with one month for each $140 which is paid to that individual as an educational assistance allowance for such program.".

38 USC 1434 note.

(c) EVALUATION OF PROVIDING ASSISTANCE FOR FLIGHT TRAINING.—(1)(A) The Secretary of Veterans Affairs shall conduct an evaluation of paying educational assistance for flight training under chapter 30 of title 38, United States Code, and chapter 106 of title 10, United States Code.

(B) The evaluation required by subparagraph (A) shall be designed to determine the effectiveness of the provision of educational assistance referred to in such subparagraph in preparing the recipients of such assistance for recognized vocational objectives in the field of aviation.

Reports.

(2) Not later than January 31, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

(A) information, separately as to payments made under chapter 30 of title 38, United States Code, and payments made under chapter 106 of title 10, United States Code, regarding—

(i) the number of recipients paid educational assistance allowances for flight training;

(ii) the amount of such assistance;

(iii) the amount paid by the recipients for such training;

(iv) the vocational objectives of the recipients; and

(v) the extent to which the training (I) assists the recipients in achieving employment in the field of aviation, or (II) was used only or primarily for recreational or avocational purposes; and

(B) any recommendations for legislation that the Secretary considers appropriate to include in the report.

10 USC 2131 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1990.

SEC. 423. TECHNICAL AND CLERICAL AMENDMENTS.

(a) IN GENERAL.—Title 38 is amended as follows:

(1)(A) Section 1412(a)(1) is amended—

(i) in clause (A)(ii), by striking out "and after completion" and inserting in lieu thereof "and beginning within one year after completion"; and

(ii) in clause (B)(ii), by striking out "and after completion" and inserting in lieu thereof "and beginning within one year after completion".

(B) Section 1412(b)(2) is amended by striking out "Continuity of service" and all that follows through "such clauses" and inserting in lieu thereof "After an individual begins service in the Selected Reserve within one year after completion of the service described in clause (A)(i) or (B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve".

(2) Section 1413 is amended—

(A) in subsections (a)(2) and (b), by striking out "subsection (c)" and inserting in lieu thereof "subsection (d)";

(B) in subsection (a)(2), by striking out "1411(a)(1)(B)(ii)(I)" the second place it occurs and inserting in lieu thereof "1411(a)(1)(A)(ii)(I)"; and

(C) in subsection (c)—

(i) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(ii) by adding at the end of such subsection the following:

"(3) Subject to section 1795 of this title and subsection (d) of this section, an individual described in clause (B) or (C)(ii) of section 1418(b)(3) of this title (other than an individual described in paragraph (2) of this subsection) is entitled to the number of months of educational assistance under this chapter that is equal to the number of months the individual has served on continuous active duty after June 30, 1985.".

(3) Section 1417(a)(1)(A)(ii) is amended by striking out "but for" and all that follows through "of this title" and inserting in lieu thereof "but for clause (1)(A)(i) or clause (2)(A) of section 1411(a) or clause (1)(A)(i) or (ii) or clause (2) of section 1412(a) of this title".

(4) Section 1431(f) is amended by striking out ", under this section," in paragraphs (1) and (2) and inserting in lieu thereof ", under section 1413,".

(5)(A) Section 1434(a)(3) is amended by striking out "employment)" and inserting in lieu thereof "employment during and since the period of such veteran's active military service)".

(B) Section 1641(a)(2) is amended by striking out "employment)" and inserting in lieu thereof "employment during and since the period of such veteran's active military service)".

(6) Section 1434 is amended—

(A) in subsection (a)(1), by inserting "1780(f)," after "1780(c),"; and

(B) by inserting after subsection (b), as redesignated by section 415(b)(3), the following new subsection:

"(c) Payment of educational assistance allowance in the case of an eligible individual pursuing a program of education under this chapter on less than a half-time basis shall be made in a lump-sum amount for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump-sum payment shall be computed at the rate determined under section 1432(b) of this title.".

(7) Section 1633 is amended by adding at the end the following new subsection:

"(d) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under subsection (c) of this section shall be reduced in the same proportion as the monthly benefit payment payable is reduced under subsection (b) of this section.".

(8)(A) Section 1781(b) is amended by adding at the end the following:

"(5) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399).".

(B) Section 1795(a) is amended by adding at the end the following:

"(8) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399).".

(9) Section 1790 is amended—

(A) in subsection (a)(2) by striking out "and prepayment";

(B) in subsection (b)(3)(A) by inserting "30," before "32"; and

(C) in subsection (b)(3)(B)—

(i) by striking out "(B)(i)" and inserting in lieu thereof "(B)"; and

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii), respectively.

(b) TECHNICAL AMENDMENTS TO CHAPTERS 30, 31, 32, 34, 35, 36, AND 41 CONCERNING THE NEW DEPARTMENT OF VETERANS AFFAIRS.—Title 38 is amended as follows:

(1) Chapters 30, 31, 32, 34, 35, and 36 are amended—

(A) by striking out "Administrator" each place it appears (other than in section 1652(b)) and inserting in lieu thereof "Secretary"; and

(B) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department of Veterans Affairs".

(2) Sections 1723(e), 1743(a), 1779(b), 1780(d)(3), 1790(b)(3)(B)(i)(III), 1794, 1796(c), and 1799(d) are amended by striking out "Administrator's" and inserting in lieu thereof "Secretary's".

(3) Section 1402(5) is amended to read as follows:

"(5) The term 'Secretary of Defense' means the Secretary of Defense, except that it means the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(4) The following sections, as in effect on the day before the date of the enactment of this Act, are amended by inserting "of Defense" after "Secretary":

(A) Sections 1418(a)(3), 1621(c), 1621(e), 1622(a), 1622(d), 1623(b), 1631(a)(2)(C), and 1642.

(B) Sections 1421(a), 1421(b), and 1622(e), the second place "Secretary" appears.

(C) Section 1422(b), the third place "Secretary" appears.

(D) Sections 1436(b), 1622(c), and 1643, each place "Secretary" appears.

(5) Section 1415(c), as in effect on the day before the date of the enactment of this Act, is amended—

(A) by striking out "prescribed by the Secretary," and inserting in lieu thereof "prescribed by the Secretary of Defense,"; and

(B) by inserting "of Defense" after "Secretary" the last place it appears.

(6) Section 1621(b)(1), as in effect on the day before the date of the enactment of this Act, is amended by striking out "(hereinafter" and all that follows through "Secretary')".

(7) Section 1623(d), as in effect on the day before the date of the enactment of this Act, is amended—

(A) by inserting "of Defense" after "Secretary" the first place it occurs; and

(B) by striking out "the Secretary" the second place it appears and inserting in lieu thereof "such Secretary".

(8) Chapter 41 is amended—

(A) by striking out "Administrator" each place it appears (other than in paragraphs (1) and (2) of section 2002A(e) and in section 2010(b)(1)(G)) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department of Veterans Affairs".

TITLE V—MEMORIAL AFFAIRS

SEC. 501. REIMBURSEMENT FOR COST OF CEMETERY HEADSTONE OR MARKER.

Subsection (d) of section 906 is amended—

(1) by striking out "actual costs incurred by or on behalf of such person in acquiring" in the first sentence and inserting in lieu thereof "cost of acquiring";

(2) by inserting after the first sentence the following: "The cost referred to in the preceding sentence is the cost actually incurred by or on behalf of such person or the cost prepaid by the deceased individual, as the case may be."; and

(3) by striking out "the preceding sentence" and inserting in lieu thereof "this subsection".

SEC. 502. BURIAL OF CREMATED REMAINS IN ARLINGTON NATIONAL CEMETERY.

(a) IN GENERAL.—Chapter 24 is amended by adding at the end the following new section:

"§ 1010. Burial of cremated remains in Arlington National Cemetery

"(a) The Secretary of the Army shall designate an area of appropriate size within Arlington National Cemetery for the unmarked interment, in accordance with such regulations as the Secretary may prescribe, of the ashes of persons eligible for interment in Arlington National Cemetery whose remains were cremated. Such area shall be an area not suitable for the burial of casketed remains.

"(b) The Secretary of the military departments shall make available appropriate forms on which those members of the Armed Forces who so desire may indicate their desire to be buried within the area to be designated under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1010. Burial of cremated remains in Arlington National Cemetery.".

SEC. 503. MEMBERSHIP ON AMERICAN BATTLE MONUMENTS COMMISSION.

The first section of the Act entitled "An Act for the creation of the American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes" (36 U.S.C. 121), approved March 4, 1923, is amended by striking out "commissioned officers" in the third sentence and inserting in lieu thereof "members".

SEC. 504. GRAVE LINERS.

(a) In General.—Subsection (e)(1) of section 906 is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Veterans Affairs shall provide a grave liner for each new grave in an open cemetery within the National Cemetery System in which remains are interred in a casket.".

38 USC 906 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to interments that occur after January 1, 1990.

SEC. 505. OPERATION OF CERTAIN CEMETERY.

Michigan.
Contracts.

The Secretary of Veterans Affairs shall enter into a contract with the State of Michigan, or the appropriate State agency thereof, under which the Secretary shall, beginning not later than July 1, 1990, operate and maintain the cemetery located in Mackinac Island State Park, Michigan, in accordance with standards applicable to cemeteries in the National Cemetery System.

TITLE VI—MISCELLANEOUS

SEC. 601. EXPANSION OF MULTIYEAR PROCUREMENT AUTHORITY TO INCLUDE NON-MEDICAL ITEMS.

(a) Expansion of Authority.—Section 114 is amended—

(1) in subsection (a), by striking out "for use in Veterans' Administration health-care facilities";

(2) in subsection (b)(2)(A), by striking "health-care"; and

(3) in subsection (e)—

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) Clerical Amendments.—(1) The heading of such section is amended to read as follows:

"§ 114. Multiyear procurement".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 is amended to read as follows:

"114. Multiyear procurement.".

SEC. 602. COURT OF VETERANS APPEALS.

(a) Judicial Personnel Financial Disclosure Requirements.—(1) Section 308 of the Ethics in Government Act of 1978 (28 U.S.C. App. 308) is amended—

(A) in clause (9), by inserting "United States Court of Veterans Appeals;" after "Appeals;"; and

(B) in clause (10)—

(i) by striking out "or" the first place it appears; and

(ii) by inserting a comma and "or of the United States Court of Veterans Appeals" after "Appeals".

Reports.
28 USC app. 302 note.

(2) Not later than 30 days after the date of the enactment of this Act, each person who, on that date, is a judge of the United States Court of Veterans Appeals or a judicial employee of such court and each person who, before that date, has been nominated by the President to be a judge on such court shall file a report containing the information described in section 302(b) of the Ethics in Government Act of 1978 (28 U.S.C. App. 302(b)). Subsections (e), (f), and (g) of section 302 of such Act shall apply to the requirement in the preceding sentence.

(b) AUTHORITY TO ADMINISTER OATHS.—Section 4054 is amended by adding at the end the following new subsection:

"(d) Judges of the Court shall have the authority to administer oaths.".

(c) AUTHORITY TO COMPEL ACTIONS UNREASONABLY DELAYED.—Section 4061(a)(2) is amended by inserting "or unreasonably delayed" after "withheld".

Real property.

SEC. 603. COLLOCATION AND LEASE PURCHASE.

(a) REGIONAL OFFICES AND MEDICAL CENTERS.—Section 230 is amended by adding at the end the following new subsection:

"(c)(1) To provide for a more economical, efficient, and effective operation of such regional offices, the Secretary shall provide for the collocation of at least three regional offices with medical centers of the Department—

"(A) on real property under the jurisdiction of the Department of Veterans Affairs at such medical centers; or

"(B) on real property that is adjacent to such a medical center and is under the jurisdiction of the Department as a result of being conveyed to the United States for the purpose of such collocation.

"(2)(A) In carrying out this subsection and notwithstanding any other provision of law, the Secretary may lease, with or without compensation and for a period of not to exceed 35 years, to another party at not more than seven locations any of the real property described in paragraph (1)(A) or (B) of this subsection.

"(B) Such real property shall be used as the site of a facility—

"(i) constructed and owned by the lessee of such real property; and

"(ii) leased under paragraph (3)(A) of this subsection to the Department for such use and such other activities as the Secretary determines are appropriate.

"(3)(A) The Secretary may enter into a lease for the use of any facility described in paragraph (2)(B) of this subsection for not more than 35 years under such terms and conditions as may be in the best interests of the Department.

"(B) Each agreement to lease a facility under subparagraph (A) of this paragraph shall include a provision that—

"(i) the obligation of the United States to make payments under the agreement is subject to the availability of appropriations for that purpose; and

"(ii) the ownership of such facility shall vest in the United States at the end of such lease.

"(4)(A) The Secretary may sublease any space in such a facility to another party at a rate not less than—

"(i) the rental rate paid by the Secretary for such space under paragraph (3) of this subsection; plus "(ii) the amount the Secretary pays for the costs of administering such facility (including operation, maintenance, utility, and rehabilitation costs) which are attributable to such space.

"(B) In any such sublease, the Secretary shall include such terms relating to default and nonperformance as the Secretary considers appropriate to protect the interests of the United States.

"(5) The Secretary shall use the receipts of any payment for the lease of real property under paragraph (2) for the payment of the lease of a facility under paragraph (3).

"(6)(A) Subject to subparagraph (C)(i) of this paragraph, the Secretary shall, within 120 days of the date of the enactment of this subsection, issue an invitation for offers with respect to three collocations to be carried out under this subsection. Such invitation shall include, with respect to each such collocation, at least—

"(i) identification of the site to be developed;

"(ii) minimum office space requirements for regional office activities;

"(iii) design criteria of the facility to be constructed;

"(iv) a plan for meeting the security and parking needs for the facility and its occupants and visitors;

"(v) a statement of current and projected rents and other costs for regional office activities;

"(vi) the estimated cost of construction of the facility concerned, the estimated annual cost of leasing space for regional office activities in the facility, and the estimated total annual cost of leasing all space in such facility;

"(vii) a plan for securing appropriate licenses, easements, and rights-of-way; and

"(viii) a list of terms and conditions the Secretary has approved for inclusion in the lease agreement for the facility concerned.

"(B) Subject to subparagraph (C)(ii) of this paragraph, the Secretary shall—

"(i) within one year after the date on which the invitation is issued under subparagraph (A) of this paragraph, enter into an agreement to carry out one collocation under this subsection; and

"(ii) within 180 days after entering into the agreement referred to in clause (i) of this subparagraph, enter into agreements to carry out two additional collocations,

unless the Secretary determines that it is not economically feasible for the Department of Veterans Affairs to undertake them, taking into consideration all of the tangible and intangible benefits associated with such collocations.

"(C) The Secretary shall—

"(i) at least 10 days before the issuance or other publication of the invitation referred to in subparagraph (A) of this paragraph, transmit a copy of such invitation to the Committees on Veterans' Affairs of the Senate and House of Representatives; and

"(ii) at least 30 days before entering into an agreement under subparagraph (B) of this paragraph, transmit a copy to the Committees on Veterans' Affairs of the Senate and House of Representatives of the proposals selected by the Secretary from those received in response to the invitation issued under subparagraph (A) of this paragraph.

"(7) The authority to enter into an agreement under this subsection shall expire on October 1, 1992.".

(b) Lease-Purchase of Certain Medical Centers.—Section 5003 is amended by adding at the end the following new subsection:

"(d)(1) The Secretary may provide for the acquisition of not more than three facilities for the provision of outpatient services or nursing home care through lease-purchase arrangements on real property under the jurisdiction of the Department of Veterans Affairs.

"(2)(A) In carrying out this subsection and notwithstanding any other provision of law, the Secretary may lease, with or without compensation and for a period of not to exceed 35 years, to another party any of the real property described in paragraph (1) of this subsection.

"(B) Such real property shall be used as the site of a facility referred to in paragraph (1) of this subsection—

"(i) constructed and owned by the lessee of such real property; and

"(ii) leased under paragraph (3)(A) of this subsection to the Department for such use and for such other activities as the Secretary determines are appropriate.

"(3)(A) The Secretary may enter into a lease for the use of any facility described in paragraph (2)(B) of this subsection for not more than 35 years under such terms and conditions as may be in the best interests of the Department.

"(B) Each agreement to lease a facility under subparagraph (A) of this paragraph shall include a provision that—

"(i) the obligation of the United States to make payments under the agreement is subject to the availability of appropriations for that purpose; and

"(ii) the ownership of such facility shall vest in the United States at the end of such lease.

"(4)(A) The Secretary may sublease any space in such a facility to another party at a rate not less than—

"(i) the rental rate paid by the Secretary for such space under paragraph (3) of this subsection; plus

"(ii) the amount the Secretary pays for the costs of administering such facility (including operation, maintenance, utility, and rehabilitation costs) which are attributable to such space.

"(B) In any such sublease, the Secretary shall include such terms relating to default and nonperformance as the Secretary considers appropriate to protect the interests of the United States.

"(5) The Secretary shall use the receipts of any payment for the lease of real property under paragraph (2) for the payment of the lease of a facility under paragraph (3).

"(6) The authority to enter into an agreement under this subsection—

"(A) shall not take effect until the Secretary has entered into agreements under section 230(c) of this title to carry out at least three collocations; and

"(B) shall expire on October 1, 1993.".

SEC. 604. RATIFICATION.

38 USC 620B note.

Any actions of the Secretary of Veterans Affairs in carrying out the provisions of section 620B of title 38, United States Code, section

115 of the Veterans Benefits and Services Act of 1988, section 618 of the Treasury, Postal Service and General Government Appropriations Act, 1989, or section 1829 of such title, by contract or otherwise, during the period beginning on December 1, 1989, and ending on the date of the enactment of this Act are hereby ratified.

Approved December 18, 1989.

LEGISLATIVE HISTORY—H.R. 901 (S. 13):

HOUSE REPORTS: No. 101-107 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 101-126 accompanying S. 13 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
June 27, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Nov. 20, House concurred in Senate amendments with amendments. Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
Dec. 18, Presidential statement.

○

Public Law 101-238
101st Congress

An Act

To amend the Immigration and Nationality Act to provide for adjustment of status, without regard to numerical limitations, for certain H-1 nonimmigrant nurses and to establish conditions for the admission, during a 5-year period, of nurses as temporary workers.

Dec. 18, 1989
[H.R. 3259]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Immigration Nursing Relief Act of 1989.
Aliens.
8 USC 1101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Nursing Relief Act of 1989".

8 USC 1255 note.

SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN H-1 NONIMMIGRANT NURSES.

(a) In General.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to the adjustment of status under section 245 of such Act of an immigrant, and the immigrant's accompanying spouse and children—

(1) who, as of September 1, 1989, has the status of a nonimmigrant under paragraph (15)(H)(i) of section 101(a) of such Act to perform services as a registered nurse,

(2) who, for at least 3 years before the date of application for adjustment of status (whether or not before, on, or after, the date of the enactment of this Act), has been employed as a registered nurse in the United States, and

(3) whose continued employment as a registered nurse in the United States meets the standards established for the certification described in section 212(a)(14) of such Act.

Regulations.

The Attorney General shall promulgate regulations to carry out this subsection by not later than 90 days after the date of the enactment of this Act.

(b) Transition.—For purposes of adjustment of status under section 245 of the Immigration and Nationality Act in the case of an alien who, as of December 31, 1989, is present in the United States in the lawful status of a nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse, or who is the spouse or child of such an alien, such an alien shall be considered as having continued to maintain lawful status as such a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out subsection (a).

(c) Application of Immigration and Nationality Act Provisions.—The definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

39-139 O - 89 (238)

(d) Application Period.—The alien, and accompanying spouse and children, must apply for such adjustment within the 5-year period beginning on the date the Attorney General promulgates regulations required under subsection (a).

SEC. 3. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES DURING 5-YEAR PERIOD.

(a) Establishment of a New Nonimmigrant Classification for Nonimmigrant Nurses.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(1) by inserting "(a) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility for which the alien will perform the services, or (b)" after "(i)", and

(2) by inserting "(other than services as a registered nurse)" after "to perform services".

(b) Requirements.—Section 212 of such Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(a), with respect to an alien who is coming to the United States to perform nursing services for a facility, are that the alien—

"(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States or Canada;

"(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

"(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

Health care facilities.

"(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(a), with respect to a facility for which an alien will perform services, is an attestation as to the following:

"(i) There would be a substantial disruption through no fault of the facility in the delivery of health care services of the facility without the services of such an alien or aliens.

"(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

"(iii) The alien will be paid the wage rate for registered nurses similarly employed by the facility.

"(iv) Either (I) the facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses, or (II) the facility is subject to an approved State plan for the recruitment and retention of nurses (described in paragraph (3)).

"(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

"(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(a), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to registered nurses employed at the facility through posting in conspicuous locations.

A facility is considered not to meet clause (i) (relating to an attestation of a substantial disruption in delivery of health care services) if the facility, within the previous year, laid off registered nurses. Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of this subsection.

"(B) For purposes of subparagraph (A)(iv)(I), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

"(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

"(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.

"(iv) Providing adequate support services to free registered nurses from administrative and other nonnursing duties.

"(v) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv)(I). Nothing herein shall require a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable.

"(C) Subject to subparagraph (E), an attestation under subparagraph (A) shall—

"(i) expire at the end of the 1-year period beginning on the date of its filing with the Secretary of Labor, and

"(ii) apply to petitions filed during such 1-year period if the facility states in each such petition that it continues to comply with the conditions in the attestation.

"(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

Public information.
District of Columbia.

"(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(a) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

"(ii) The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to.

"(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least 1 year for nurses to be employed by the facility.

"(v) In addition to the sanctions provided under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

"(3) The Secretary of Labor shall provide for a process under which a State may submit to the Secretary a plan for the recruitment and retention of United States citizens and immigrants who are authorized to perform nursing services as registered nurses in facilities in the State. Such a plan may include counseling and educating health workers and other individuals concerning the employment opportunities available to registered nurses. The Secretary shall provide, on an annual basis in consultation with the Secretary of Health and Human Services, for the approval or disapproval of such a plan, for purposes of paragraph (2)(A)(iv)(II). Such a plan may not be considered to be approved with respect to the facility unless the plan provides for the taking of significant steps described in paragraph (2)(A)(iv)(I) with respect to registered nurses in the facility.

"(4) The period of admission of an alien under section 101(a)(15)(H)(i)(a) shall be for an initial period of not to exceed 3 years, subject to an extension for a period or periods, not to exceed a total period of admission of 5 years (or a total period of admission of 6 years in the case of extraordinary circumstances, as determined by the Attorney General).

"(5) For purposes of this subsection and section 101(a)(15)(H)(i)(a), the term 'facility' includes an employer who employs registered nurses in a home setting.".

(c) IMPLEMENTATION.—The Secretary of Labor (in consultation with the Secretary of Health and Human Services) shall— 8 USC 1182 note.

(1) first publish final regulations to carry out section 212(m) of the Immigration and Nationality Act (as added by this section) not later than the first day of the 8th month beginning after the date of the enactment of this Act; and Regulations.

(2) provide for the appointment (by January 1, 1991) of an advisory group, including representatives of the Secretary, the Secretary of Health and Human Services, the Attorney General, hospitals, and labor organizations representing registered nurses, to advise the Secretary—

(A) concerning the impact of this section on the nursing shortage,

(B) on programs that medical institutions may implement to recruit and retain registered nurses who are United States citizens or immigrants who are authorized to perform nursing services,

(C) on the formulation of State recruitment and retention plans under section 212(m)(3) of the Immigration and Nationality Act, and

(D) on the advisability of extending the amendments made by this section beyond the 5-year period described in subsection (d).

(d) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 5-YEAR PERIOD.—The amendments made by the previous provisions of this section shall apply to classification petitions filed for nonimmigrant status only during the 5-year period beginning on the first day of the 9th month beginning after the date of the enactment of this Act. 8 USC 1182 note.

SEC. 4. FRAUD PREVENTION IN SAW PROGRAM.

(a) Section 210(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1160(a)(3)) is amended by—

(1) inserting "(A)" before "During", and

(2) inserting at the end of such paragraph the following new subparagraph:

"(B) Before any alien becomes eligible for adjustment of status under paragraph (2), the Attorney General may deny adjustment to permanent status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

"(i) the Attorney General finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation as set out in section 212(a)(19), or

"(ii) the alien commits an act that (I) makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (c)(2), or (II) is convicted of a felony or 3 or more misdemeanors committed in the United States.".

(b) Section 210(b)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1160) is amended to read as follows:

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application including a determination under subparagraph (a)(3)(B), or for enforcement of paragraph (7).".

8 USC 1324a note.

SEC. 5. PILOT PROJECTS FOR SECURE DOCUMENTS.

State and local governments.

(a) CONSULTATION.—Before June 1, 1991, the Attorney General shall consult with State governments on any proper State initiative to improve the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a). The result of such consultations shall be reported, before September 1, 1991, to the Committees on the Judiciary of the Senate and House of Representatives of the United States.

Reports.

Grants. Contracts. California.

(b) ASSISTANCE FOR STATE INITIATIVES.—After such consultation described in subsection (a), the Attorney General shall make grants to, and enter into contracts with (to such extent or in such amounts as are provided in an appropriation Act), the State of California and at least 2 other States with large immigrant populations to promote any State initiatives to improve the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $10,000,000 for fiscal year 1992 to carry out subsection (b).

(d) REPORT REQUIRED.—The Attorney General shall report to the Committees on the Judiciary of the Senate and House of Representatives not later than August 1, 1993, on the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a), and any improvements in such documents that have occurred as a result of this section.

SEC. 6. ADDITIONAL USES OF STATE LEGALIZATION IMPACT ASSISTANCE GRANT FUNDS.

(a) IN GENERAL.—Section 204(c) of the Immigration Reform and Control Act of 1986 is amended—

8 USC 1255a note.

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting a comma, and

(C) by inserting after subparagraph (C) the following new subparagraphs:

"(D) to make payments for public education and outreach (including the provision of information to individual applicants) to inform temporary resident aliens regarding—

"(i) the requirements of sections 210, 210A, and 245A of the Immigration and Nationality Act regarding the adjustment of resident status,

"(ii) sources of assistance for such aliens obtaining the adjustment of status described in clause (i), including educational, informational, referral services, and the rights and responsibilities of such aliens and aliens lawfully admitted for permanent residence,

"(iii) the identification of health, employment, and social services, and

"(iv) the importance of identifying oneself as a temporary resident alien to service providers, except that nothing in this subparagraph may be construed as authorizing the provision of client counseling or any other service which would assume responsibility for the alien's application for the adjustment of status described in clause (i),

"(E)(i) subject to clause (ii), to make payments for education and outreach efforts by State agencies regarding unfair discrimination in employment practices based on national origin or citizenship status,

"(ii) except that the State agencies shall not initiate such efforts until after such consultation with the Office of the Special Counsel for Unfair Immigration-Related Employment Practices as is appropriate to ensure, to the maximum extent feasible, a uniform program."; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

"(D) Of the amount allotted to a State with respect to any fiscal year, a State may not use more than—

"(i) 1 percent (or, if greater, $100,000) for payments under paragraph (1)(D), and

"(ii) 1 percent (or, if greater, $100,000) for payments under paragraph (1)(E).".

(b) Effective Date.—The amendments made by subsection (a) shall apply to the use of allotments for fiscal years beginning with fiscal year 1989.

8 USC 1255a note.

Approved December 18, 1989.

LEGISLATIVE HISTORY—H.R. 3259:

HOUSE REPORTS: No. 101-288 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 135 (1989):
Oct. 17, considered and passed House.
Nov. 20, considered and passed Senate, amended.
Nov. 21, House concurred in Senate amendment.

○

PUBLIC LAW 101-239—DEC. 19, 1989

OMNIBUS BUDGET RECONCILIATION ACT OF 1989

Public Law 101-239
101st Congress

An Act

Dec. 19, 1989
[H.R. 3299]

To provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Budget Reconciliation Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1989".

SEC. 2. TABLE OF CONTENTS.

Title I—Agriculture and related programs.
Title II—Student loan and pension fiduciary amendments.
Title III—Regulatory agency fees.
Title IV—Civil service and postal service programs.
Title V—Veterans programs.
Title VI—Medicare, medicaid, maternal and child health, and other health provisions.
Title VII—Revenue provisions.
Title VIII—Human resource and income security provisions.
Title IX—Offshore oil pollution compensation fund.
Title X—Miscellaneous and technical Social Security Act amendments.
Title XI—Miscellaneous.

Agricultural Reconciliation Act of 1989.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

7 USC 1421 note.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1989".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1001. Short title; table of contents.
Sec. 1002. Soybean, sunflower, and safflower planting program; feed grain acreage limitation program.
Sec. 1003. Reduction of deficiency payments for 1990 crops.
Sec. 1004. Repayment of advance deficiency payments.
Sec. 1005. Reduction of expenditures under the export enhancement program and for targeted export assistance.
Sec. 1006. Purchases of Financial Assistance Corporation stock by Farm Credit System institutions.
Sec. 1007. Adjustments in dairy price support program.

SEC. 1002. SOYBEAN, SUNFLOWER, AND SAFFLOWER PLANTING PROGRAM; FEED GRAIN ACREAGE LIMITATION PROGRAM.

(a) PLANTING OF SOYBEANS, SUNFLOWERS, AND SAFFLOWERS ON PERMITTED ACREAGE.—Effective only for the 1990 crops, subsection (e) of section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464(e)) is amended to read as follows:

"(e) Notwithstanding any other provision of this Act—

"(1) Effective for the 1990 crops, the Secretary shall, subject to paragraph (2), permit producers on a farm to plant soybeans, sunflowers, or safflowers on a portion specified by the producer (but in any event not more than 25 percent) of the producers' 1990 wheat, feed grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

"(2)(A) The Secretary shall establish a sign-up period during which the producers on a farm, participating in the 1990 crop wheat, feed grain, upland cotton, extra long staple cotton, or rice price support and production adjustment program, must state their intentions regarding use of the increased planting provision under paragraph (1).

"(B) After termination of the sign-up period under subparagraph (A), the Secretary shall estimate whether, based on the anticipated additional soybean, sunflower, and safflower plantings for the crop, the average market price for the 1990 crop of soybeans will be below 110 percent of the loan rate established for the 1989 crop of soybeans.

"(C) If the Secretary estimates that the average market price for the 1990 crop of soybeans will be below 110 percent of such loan rate, the Secretary shall reduce the percentage of permitted acreage on the farm that may be planted to soybeans, sunflowers, and safflowers to a level, or prohibit such plantings, as necessary to ensure that the average soybean market price does not fall below 110 percent of such loan rate.

"(D) The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for any reduction in the permitted planting percentage, or prohibition on such plantings, under this paragraph.

"(3)(A) For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm on which soybeans, sunflowers, or safflowers are planted under this subsection shall be considered to be planted to the program crop for which soybeans, sunflowers, or safflowers are substituted.

"(B) The Secretary may not make program benefits other than soybean or sunflower seed price support loans and purchases available to producers with respect to acreage planted to soybeans, sunflowers, or safflowers under this subsection and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

(b) FEED GRAIN ACREAGE LIMITATION PROGRAM.—Effective only for the 1990 crop of feed grains, section 105C(f)(1)(C) of such Act (7 U.S.C. 1444e(f)(1)(C)) is amended—

(1) by striking "(C)", "1990", "(i)", and "(ii)" and inserting "(C)(i)", "1989", "(I)", and "(II)", respectively; and

(2) by adding at the end the following new clause:

"(ii) In the case of the 1990 crop of feed grains, if the Secretary estimates, not later than September 30, 1989, that the quantity of corn on hand in the United States on the first day of the marketing year for that crop (not including any quantity of corn of that crop) will be—

"(I) more than 2,000,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 12½ percent nor more than 20 percent;

"(II) less than 2,000,000,000 bushels but more than 1,800,000,000 bushels, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 12½ percent; or

"(III) 1,800,000,000 bushels or less, the Secretary may provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to feed grains for harvest on a farm would be limited to the feed grain crop acreage base for the farm for the crop reduced by not more than 10 percent.".

SEC. 1003. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990 CROPS.

(a) In General.—Effective only for the 1990 crops, title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

7 USC 1433d.

"SEC. 425. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990 CROPS.

"(a) In General.—Notwithstanding any other provision of law, the amount of deficiency payments made available to producers of the 1990 crops of wheat, feed grains, upland cotton, and rice under sections 107D(c), 105C(c), 103A(c), and 101A(c), respectively, shall be reduced by—

"(1) in the case of wheat, 2.33 cents per bushel;

"(2) in the case of corn, 2.33 cents per bushel (and a comparable amount for other feed grains, as determined by the Secretary);

"(3) in the case of upland cotton, .515 cents per pound; and

"(4) in the case of rice, 5.15 cents per hundredweight.

"(b) Application to Advance Deficiency Payments.—To the extent practicable, the Secretary shall apply the reduction required under subsection (a) to any advance deficiency payment made available to producers of the 1990 crops under section 107C.".

(b) Technical and Conforming Amendments.—

(1) Effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a)(2)(G) of such Act (7 U.S.C. 1445b-2(a)(2)(G)) is amended—

(A) by inserting after "subsection" the following: "(taking into consideration any reduction in the payment made under section 425)"; and

(B) by striking "finallly" and inserting "finally".

(2) Effective only for the 1986 through 1990 crops of feed grains, section 105C(c)(1)(D)(i) of such Act (7 U.S.C. 1444e(c)(1)(D)(i)) is amended by striking "subsection (a)(4)" and inserting "subsection (a)(3)".

SEC. 1004. REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS.

Disaster assistance.

(a) Delay in Refund.—Paragraph (4) of section 201(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) (as amended by section 602 of the Disaster Assistance Act of 1989 (Public Law 101-82; 103 Stat. 587)) is amended to read as follows:

"(4) Effective only for the 1988 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of such Act must be refunded, such refund shall not be required—

"(A) prior to December 31, 1989, if such producers suffered losses of 1988 or 1989 crops due to a natural disaster in 1988 or 1989; or

"(B) prior to July 31, 1990, for that portion of the crop for which a disaster payment is made under subsection (a).".

(b) Rationale.—For purposes of section 202 of Public Law 100-119 (2 U.S.C. 909), the amendment made by subsection (a) is a necessary (but secondary) result of a significant policy change.

SEC. 1005. REDUCTION OF EXPENDITURES UNDER THE EXPORT ENHANCEMENT PROGRAM AND FOR TARGETED EXPORT ASSISTANCE.

(a) Export Enhancement Program.—During fiscal year 1990, the Commodity Credit Corporation shall not, except to the extent provided for under section 4301 of the Agricultural Competitiveness and Trade Act of 1988 (Public Law 100-418; 7 U.S.C. 1446 note), make available to exporters, processors, or foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) more than $566,000,000 in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market.

(b) Targeted Export Assistance.—Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) by striking "and" at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following:

"(3) for the fiscal year 1989, the Secretary shall use under this section not less than $325,000,000 of the funds of, or commodities owned by, the Corporation; and

"(4) for the fiscal year 1990, the Secretary shall use under this section not less than $200,000,000 of the funds of, or commodities owned by, the Corporation.".

SEC. 1006. PURCHASES OF FINANCIAL ASSISTANCE CORPORATION STOCK BY FARM CREDIT SYSTEM INSTITUTIONS.

12 USC 2278b-9 note.

(a) Delayed Effective Date for Stock Purchase Requirement.—Notwithstanding any other provision of law, the amendments to section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) made by section 646 of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460; 102 Stat. 2266) shall be effective on October 1, 1992.

(b) Payments.—

(1) Four annual payments.—Notwithstanding any other provision of law, the Financial Assistance Corporation shall pay, out of the Financial Assistance Corporation Trust Fund (hereinafter in this section referred to as the "Trust Fund") established under section 6.25(b) of the Farm Credit Act of 1971 (12 U.S.C. 2278b-5(b)), to each of the institutions of the Farm Credit System that purchased stock in the Financial Assistance Corporation under section 6.29 of the Farm Credit Act of 1971, four annual payments as provided in this subsection.

(2) Timing of payments.—The annual payments provided for by this subsection shall be made available as soon as practicable after October 1 of each of the calendar years 1989 through 1992.

(3) Calculation of first payment.—The first annual payment made available under this subsection shall be in an amount equal to—

(A) a percentage equal to 1.5 times the average rate of interest received by the Financial Assistance Corporation on assets of the Trust Fund from March 30, 1988, through September 30, 1989; times

(B) the difference between $177,000,000 and 4.4 percent of the cumulative amount of the bonds issued by the Financial Assistance Corporation through September 30, 1989.

(4) Calculation of remaining payments.—The second, third, and fourth annual payments made available under this subsection shall be in an amount equal to—

(A) a percentage equal to the average rate of interest received by the Financial Assistance Corporation on assets of the Trust Fund during each of the fiscal years 1990 through 1992; times

(B) the difference between $177,000,000 and 4.4 percent of the cumulative amount of the bonds issued by the Financial Assistance Corporation through September 30 of each of such fiscal years.

(5) Distribution of annual payments.—Annual payments due under this subsection shall be made available to each institution described in paragraph (1) in an amount equal to the total amount of annual payments to be made available times the ratio of the amount of stock each institution purchased divided by $177,000,000.

SEC. 1007. ADJUSTMENTS IN DAIRY PRICE SUPPORT PROGRAM.

Effective only for calendar year 1990, section 201(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (ii), by inserting after "Except as provided in" the following: "clause (iii) and"; and

(B) by adding at the end the following new clause:

"(iii) In carrying out this paragraph during calendar year 1990, the Secretary shall offer to purchase butter for not more than $1.10 per pound, except that the Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in such other manner as the Secretary determines will result in the lowest level of expenditures by the Commodity Credit Corporation and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of such determination."; and

(2) in subparagraph (D)(i)—

(A) by striking "each of the calendar years 1988 and 1990" and inserting "calendar year 1990"; and

(B) by striking "shall reduce by" and inserting "may reduce by not more than".

TITLE II—STUDENT LOAN AND PENSION FIDUCIARY AMENDMENTS

Subtitle A—Student Loan Reconciliation Amendments

Student Loan Reconciliation Amendments of 1989.

SEC. 2001. SHORT TITLE.

20 USC 1001 note.

This subtitle may be cited as the "Student Loan Reconciliation Amendments of 1989".

SEC. 2002. INTERNSHIP DEFERMENTS AND FORBEARANCE.

Health care professionals.

(a) DEFERMENTS.—

(1) FEDERALLY INSURED STUDENT LOANS.—Section 427(a)(2)(C)(i) of the Higher Education Act of 1965 (20 U.S.C. 1077(a)(2)(C)(i)) is amended by inserting before the semicolon at the end thereof the following: ", except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program".

(2) FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.—Section 428(b)(1)(M)(i) of such Act (20 U.S.C. 1078(b)(1)(M)(i)) is amended by inserting before the semicolon at the end thereof the following: ", except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program".

(3) LOAN AGREEMENTS.—Section 464(c)(2)(A)(i) of such Act (20 U.S.C. 1087dd(c)(2)(A)(i)) is amended by inserting before the semicolon at the end thereof the following: ", except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program".

20 USC 1077 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any loan made, insured, or guaranteed under part B or part E of title IV of the Higher Education Act of 1965, including a loan made before the enactment of this Act, and shall take effect on January 1, 1990, except that such amendments shall not apply with respect to any portion of a period of deferment granted to a borrower under section 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the Higher Education Act of 1965 for service in a medical internship or residency program that is completed prior to the effective date of this section.

(b) FORBEARANCE.—

(1) FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.—Section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended—

(A) in subsection (b)(1)—

(i) in subparagraph (T), by striking "and" at the end thereof;

(ii) in subparagraph (U), by striking the period at the end thereof and inserting "; and"; and

(iii) by adding at the end thereof the following new subparagraph:

"(V)(i) provides that, upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals for a period equal to the length of time remaining in the borrower's medical or dental internship or residency program, on such terms as are otherwise consistent with the regulations of the Secretary and agreed upon in writing by the parties to the loan, with the approval of the insurer, if the borrower—

"(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training; and

"(II) has exhausted his or her eligibility for a deferment under section 427(a)(2)(C)(vii) or subparagraph (M)(vii) of this paragraph; and

"(ii) provides that no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and that no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of a forbearance under clause (i)."; and

(B) by amending subsection (c)(3) to read as follows:

"(3) FORBEARANCE.—A guaranty agreement under this subsection—

"(A) shall contain provisions providing for forbearance in accordance with subsection (b)(1)(V) for the benefit of the student borrower serving in a medical or dental internship or residency program; and

"(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer.

Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.".

0 USC 1078
ote.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to loans made before, on, or after the date of enactment of this Act.

SEC. 2003. CHANGES IN THE SUPPLEMENTAL LOANS FOR STUDENTS PROGRAM.

(a) RESTRICTIONS ON SLS PROGRAM AT INSTITUTIONS WITH HIGH COHORT DEFAULT RATES.—

(1) RESTRICTION.—Section 428A(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(a)) is amended—

(A) by striking "(a) AUTHORITY TO BORROW.—Graduate and professional students"; and inserting the following:

"(a) AUTHORITY TO BORROW.—

"(1) STUDENT ELIGIBILITY.—Graduate and professional students";

(B) by indenting the remaining text of subsection (a) two em spaces; and

(C) by adding at the end thereof the following:

"(2) INSTITUTIONAL ELIGIBILITY.—Funds may not be borrowed under this section by any undergraduate student who is enrolled at any institution during any fiscal year if the cohort default rate for such institution, for the most recent fiscal year for which such rates are available, equals or exceeds 30 percent. The Secretary shall notify institutions to which such restriction applies annually, and specify the fiscal year covered by the restriction. The Secretary shall afford any institution to which such restriction applies an opportunity to present evidence contesting the accuracy of the calculation of the cohort default rate for such institution.".

(2) DEFINITION.—Section 435 of such Act (20 U.S.C. 1085) is amended by adding at the end thereof the following new subsection:

"(m) COHORT DEFAULT RATE.—The term 'cohort default rate' means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 428 or 428A received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans received for attendance at that institution in that fiscal year who default before the end of the following fiscal year. For any fiscal year in which less than 30 of the institution's current and former students enter repayment, the term 'cohort default rate' means the average of the rate calculated under the preceding sentence for the 3 most recent fiscal years. In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year. A loan on which a payment is made by the school, its owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection. Any loan which has been rehabilitated before the end of such following fiscal year is not considered as in default for purposes of this subsection. The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.".

Regulations.

(3) EFFECTIVE DATE.—

20 USC 1078-1 note.

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply to loans made on or after January 1, 1990, and before October 1, 1991. Regulations prescribed by the Secretary under the last sentence of section 435(m) of the Higher Education Act of 1965 (as added by such amendments) shall apply with respect to measures described in such sentence that are used on or after October 1, 1989.

(B) The amendments made by this subsection shall not be applied to prevent an individual who is enrolled on the date of enactment of this Act in a program of instruction for which the individual has obtained a loan under section 428A of the Higher Education Act of 1965 from receiving additional loans under such section to cover the cost of attendance at that eligible institution to complete that program of instruction.

(C) If, on or after November 8, 1989, the duration of any program of instruction is extended, subparagraph (B) shall not permit a student enrolled in such program of instruction to receive additional loans under such section 428A during the extension.

(b) MAXIMUM LOAN AMOUNTS.—

(1) AMENDMENT.—Section 428A(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)(1)) is amended to read as follows:

Regulations.

"(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount a student may borrow in any academic year or its equivalent (as defined by regulation by the Secretary), or in any period of 9 consecutive months, whichever is longer, is $4,000, except that in the case of a student who has not successfully completed the first year of a program of undergraduate education and who is not enrolled in a program that is at least one academic year in length, as determined in accordance with regulations prescribed by the Secretary, such maximum amount shall be—

"(A) $2,500 for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is at least ⅔ of an academic year;

"(B) $1,500 for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year; and

"(C) zero for a student who is determined, in accordance with such regulations, to be enrolled in a program whose length is less than ⅓ of an academic year.".

20 USC 1078-1 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to loans made on or after January 1, 1990, and before October 1, 1991.

(c) COMPLETION OF HIGH SCHOOL EQUIVALENCY REQUIRED.—

(1) ABILITY-TO-BENEFIT STUDENTS INELIGIBLE FOR SLS PROGRAM UNTIL GED COMPLETION.—Section 428A(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(a)(1)) is further amended by adding at the end thereof the following new sentence: "No student who is admitted on the basis of the ability to benefit from the education or training provided by the institution (as determined under section 484(d)) shall be eligible to borrow funds under this section until such student has obtained a certificate of high school equivalency or a high school diploma.".

20 USC 1094.

(2) GED PROGRAM REQUIRED FOR ABILITY-TO-BENEFIT STUDENTS.—Section 487(a) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new paragraph:

"(11) In the case of any institution which admits students on the basis of their ability to benefit from the education or training provided by such institution (as determined under section 484(d)), the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.".

20 USC 1078-1 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to periods of enrollment beginning on or after January 1, 1990.

SEC. 2004. ADDITIONAL REQUIREMENTS WITH RESPECT TO DISBURSEMENT OF STUDENT LOANS.

(a) AMENDMENT.—Part B of title IV of the Higher Education Act of 1965 is amended by inserting after section 428F (20 U.S.C. 1078-6) the following new section:

"REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS

"SEC. 428G. (a) MULTIPLE DISBURSEMENT REQUIRED.— 20 USC 1078-7.

"(1) TWO DISBURSEMENTS REQUIRED.—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

"(2) MINIMUM INTERVAL REQUIRED.—The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(b) DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.—

"(1) SLS LOANS TO FIRST-YEAR STUDENTS.—The first installment of the proceeds of any loan made under section 428A that is made to a student borrower who has not successfully completed the first year of a program of undergraduate education shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until—

"(A) 30 days after the borrower begins a course of study; and

"(B) the institution certifies that the borrower continues to be enrolled and in attendance at the end of such 30-day period, and is maintaining satisfactory progress;

but may be disbursed to the eligible institution prior to the end of such 30-day period.

"(2) OTHER STUDENTS.—The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

"(c) METHOD OF MULTIPLE DISBURSEMENT.—Disbursements under subsection (a)—

"(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(III)) that complies with the requirements of this section; and

"(2) may be made directly by the lender or, in the case of a loan under sections 428 and 428A, may be disbursed pursuant to the escrow provisions of section 428(i).

"(d) WITHHOLDING OF SECOND DISBURSEMENT.—

"(1) WITHDRAWING STUDENTS.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement. Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

"(2) STUDENTS RECEIVING OVER-AWARDS.—If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this title, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

"(e) EXCLUSION OF PLUS, CONSOLIDATION, AND FOREIGN STUDY LOANS.—The provisions of this section shall not apply in the case of a loan made under section 428B or 428C or made to a student to cover the cost of attendance at an eligible institution outside the United States.

"(f) BEGINNING OF PERIOD OF ENROLLMENT.—For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.".

(b) CONFORMING AMENDMENTS.—

(1) TRANSMITTAL OF INSTITUTION SCHEDULES TO LENDERS.—Section 428(a)(2)(A)(i) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)(2)(A)(i)) is amended—

(A) by striking "and" at the end of clause (I); and

(B) by inserting after clause (II) the following:

"(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and".

(2) FEDERALLY INSURED LOANS.—Section 427(a)(4) of the Higher Education Act of 1965 (20 U.S.C. 1077(a)(4)) is amended to read as follows:

"(4) the funds borrowed by a student are disbursed in accordance with section 428G.".

(3) STAFFORD LOANS.—Section 428(b)(1)(O) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(O)) is amended to read as follows:

"(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;".

20 USC 1077 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1990.

SEC. 2005. DEFAULT REDUCTION PROGRAM.

(a) AMENDMENT.—Section 428F of the Higher Education Act of 1965 (20 U.S.C. 1078-6) is amended to read as follows:

"DEFAULT REDUCTION PROGRAM

"SEC. 428F. (a) PROGRAM REQUIREMENTS.—

"(1) AUTHORITY TO ESTABLISH A DEFAULT REDUCTION PROGRAM.—The Secretary shall, in accordance with the requirements of this section, establish a default reduction program for borrowers who have one or more loans under part B of this title which are in default, as defined in section 435(l), as of the date of enactment of this section. Such program shall be commenced on, March 1, 1990, and shall last for six months.

"(2) ELIGIBILITY FOR THE BENEFITS OF THE DEFAULT REDUCTION PROGRAM.—In order to be eligible for the benefits of the default reduction program, a borrower who has a loan or loans which are in default shall contact the holder of such loan or loans during the default reduction program and shall pay in full all remaining principal and interest on such loan or loans.

"(3) Benefits of the default reduction program.—For each borrower meeting the requirement of paragraph (2)—

"(A) no penalties shall be charged on defaulted loans which are paid in full;

"(B) the guaranty agency shall report to the appropriate credit bureau or bureaus that the loan has been paid in full; and

"(C) notwithstanding section 484, eligibility to receive additional assistance under this title shall be reestablished.

"(4) Secretary's share of repayments.—The Secretary's equitable share for purposes of section 428(c)(2)(D) of amounts paid by any borrower under paragraph (2) of this subsection shall be 81.5 percent of the principal amount outstanding on the loan at the time of repayment, multiplied by the reinsurance percentage in effect when the payment under the guaranty agreement was made with respect to such loan.

"(b) Other Repayment Incentives.—

"(1) Sale of loan.—

"(A) Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 428(c), the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the loan to an eligible lender. Such loan shall not be sold to an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

Contracts.

"(B) An agreement between the guaranty agency and the Secretary for purposes of this paragraph shall provide—

"(i) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(ii) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay to the holder of such loan a special allowance pursuant to section 438.

"(C) A loan which does not meet the requirements of subparagraph (A) may also be eligible for sale under this paragraph upon a determination that the loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.

"(2) Use of proceeds of sales.—Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B)(ii) of this section for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

"(3) Borrower eligibility.—Any borrower whose loan is sold under paragraph (1) shall not be precluded by section 484 from receiving additional loans under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale.

"(4) APPLICABILITY OF GENERAL LOAN CONDITIONS.—A loan which is sold under this paragraph shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.".

20 USC 1078-6 note.

(b) PUBLICITY.—The Secretary of Education shall, from funds available through student loan collections, commencing not less than 30 days before the beginning of the default reduction program required by the amendment made by this section, and continuing throughout the duration of such program, widely publicize (through various communications media) the availability of the default reduction program.

SEC. 2006. SANCTIONS AGAINST LENDERS AND INSTITUTIONS.

(a) SANCTIONS BY SECRETARY ON LENDERS.—Section 432 of the Higher Education Act of 1965 (20 U.S.C. 1082) is amended by adding at the end thereof the following new subsection:

"(j) AUTHORITY OF THE SECRETARY TO TAKE EMERGENCY ACTIONS AGAINST LENDERS.—

"(1) IMPOSITION OF SANCTIONS.—If the Secretary—

"(A) receives information, determined by the Secretary to be reliable, that a lender is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation;

"(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

"(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (h);

Mail.

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the lender (by registered mail, return receipt requested), take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to the lender.

"(2) LENGTH OF EMERGENCY ACTION.—An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the lender under subsection (h) before the expiration of that period.

"(3) OPPORTUNITY TO SHOW CAUSE.—The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.".

(b) SANCTIONS BY GUARANTY AGENCIES.—Section 428(b)(1) (20 U.S.C. 1078(b)(1)) is amended—

(1) by inserting "emergency action," before "limitation," each place it appears in subparagraphs (T) and (U); and

(2) by inserting "take emergency action," before "limit, suspend," in subparagraph (U).

(c) SANCTIONS AGAINST INSTITUTIONS AND INSTITUTIONS' AGENTS.—Section 487(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1094(c)(1)) is amended—

(1) in subparagraph (C), by striking "and" at the end thereof;

(2) in subparagraph (D)—

(A) by striking "or any regulation prescribed under this title," and inserting in lieu thereof a comma and "any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

Mail.

"(E) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this title, if the Secretary—

"(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

"(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

"(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

Contracts.

"(F) the limitation, suspension, or termination of the eligibility of an individual or an organization to contract with any institution to administer any aspect of an institution's student assistance program under this title, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing on the record, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

Contracts.
Mail.

"(G) an emergency action against an individual or an organization that has contracted with an institution to administer any aspect of the institution's student assistance program under this title, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this title, if the Secretary—

"(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

"(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

"(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.".

SEC. 2007. EFFECT OF LOSS OF ACCREDITATION.

(a) Status as Eligible Institution for Stafford Student Loan Program.—Section 435 of the Higher Education Act of 1965 (20 U.S.C. 1085) is amended—

(1) in subsection (a)(1), by striking "The term" and inserting "Subject to subsection (n), the term"; and

(2) by adding at the end thereof the following:

"(n) Impact of Loss of Accreditation.—An institution may not be certified or recertified as an eligible institution under subsection (a) of this section if such institution has—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) withdrawn from institutional accreditation voluntarily under a show cause or suspension order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

(b) Status as Eligible Institution for Other Title IV Programs.—Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1), by striking "For the purpose" and inserting "Subject to subsection (e), for the purpose"; and

(2) by adding at the end thereof the following:

"(e) Impact of Loss of Accreditation.—An institution may not be certified or recertified as an institution of higher education under subsection (a) of this section if such institution has—

"(1) had its institutional accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months; or

"(2) withdrawn from institutional accreditation voluntarily under a show cause or suspension order during the preceding 24 months;

unless—

"(A) such accreditation has been restored by the same accrediting agency which had accredited it prior to the withdrawal, revocation, or termination; or

"(B) the institution has demonstrated its academic integrity to the satisfaction of the Secretary in accordance with section 1201(a)(5) (A) or (B) of this Act.".

(c) ELIGIBLE INSTITUTION ACCREDITATION RULE.—Section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)) is amended by inserting after paragraph (2) the following new paragraph:

"(3) Whenever the Secretary determines eligibility under paragraph (1), the Secretary shall not recognize the accreditation of any eligible institution of higher education under this subsection if the institution of higher education is in the process of receiving a new accreditation or changing accrediting agency or association unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.".

SEC. 2008. REVISION OF NATIONAL STUDENT LOAN DATA SYSTEM.

Section 485B of the Higher Education Act of 1965 (20 U.S.C 1092(b)) is amended to read as follows:

"NATIONAL STUDENT LOAN DATA SYSTEM

"SEC. 485B. (a) DEVELOPMENT OF THE SYSTEM.—The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B and loans made under part E. The information in the data system shall include (but is not limited to)— 20 USC 1092b.

"(1) the amount and type of each such loan made;

"(2) the names and social security numbers of the borrowers;

"(3) the guaranty agency responsible for the guarantee of the loan;

"(4) the institution of higher education or organization responsible for loans made under part E;

"(5) the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

"(6) the total amount of loans made to any borrower and the remaining balance of the loans;

"(7) the lender, holder, and servicer of such loans;

"(8) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan;

"(9) information regarding any deferments or forbearance granted on such loans; and

"(10) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

"(b) Additional Information.—For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B. Such data shall include—

"(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

"(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

"(3) information concerning other student financial assistance received by the borrower; and

"(4) information concerning Federal costs associated with the student loan program under part B of this title, including the costs of interest subsidies, special allowance payments, and other subsidies.

"(c) Verification.—The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B or part E.

"(d) Report to Congress.—The Secretary shall prepare and submit to the appropriate committees of the Congress, in each fiscal year, a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.".

SEC. 2609. INFORMATION USED IN EXERCISE OF AID ADMINISTRATOR DISCRETION.

Section 479A(a) of such Act (20 U.S.C. 1987tt(a)) is amended to read as follows:

"Sec. 479A. (a) In General.—Nothing in this title shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the data required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances not addressed by the data elements in subparts 1 and 2 of part A and parts B, C, and E of this title. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected under subparts 1 and 2 of part A and parts B, C, and E in the absence of special circumstances. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of

Records.

awards under subparts 1 and 2 of part A and parts B, C, and E of this title.".

Subtitle B—Fiduciary Responsibilities

SEC. 2101. CIVIL PENALTIES ON VIOLATIONS BY FIDUCIARIES.

(a) IN GENERAL.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end thereof the following new subsection:

"(l)(1) In the case of—

"(A) any breach of fiduciary responsibility under (or other violation of) part 4 by a fiduciary, or

"(B) any knowing participation in such a breach or violation by any other person,

the Secretary shall assess a civil penalty against such fiduciary or other person in an amount equal to 20 percent of the applicable recovery amount.

"(2) For purposes of paragraph (1), the term 'applicable recovery amount' means any amount which is recovered from a fiduciary or other person with respect to a breach or violation described in paragraph (1)—

"(A) pursuant to any settlement agreement with the Secretary, or

"(B) ordered by a court to be paid by such fiduciary or other person to a plan or its participants and beneficiaries in a judicial proceeding instituted by the Secretary under subsection (a)(2) or (a)(5).

"(3) The Secretary may, in the Secretary's sole discretion, waive or reduce the penalty under paragraph (1) if the Secretary determines in writing that—

"(A) the fiduciary or other person acted reasonably and in good faith, or

"(B) it is reasonable to expect that the fiduciary or other person will not be able to restore all losses to the plan without severe financial hardship unless such waiver or reduction is granted.

"(4) The penalty imposed on a fiduciary or other person under this subsection with respect to any transaction shall be reduced by the amount of any penalty or tax imposed on such fiduciary or other person with respect to such transaction under subsection (i) of this section and section 4975 of the Internal Revenue Code of 1986.".

(b) CONFORMING AMENDMENT.—Section 502(a)(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)(6)) is amended by inserting "or (l)" after "subsection (i)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any breach of fiduciary responsibility or other violation occurring on or after the date of the enactment of this Act. 29 USC 1132 note.

TITLE III—REGULATORY AGENCY FEES

Subtitle A—Federal Communications Commission Fees and Penalties

SEC. 3001. FEDERAL COMMUNICATIONS COMMISSION FEES.

(a) UPDATE OF FEE SCHEDULE.—Section 8 of the Communications Act of 1934 (47 U.S.C. 158) is amended by adding at the end thereof the following:

"(g) Until modified pursuant to subsection (b) of this section, the Schedule of Charges which the Federal Communications Commission shall prescribe pursuant to subsection (a) of this section shall be as follows:

"SCHEDULE OF CHARGES

Service	Fee amount
PRIVATE RADIO SERVICES	
1. Marine Coast Stations	
a. New License (per station)	$70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	100.00
e. Assignments (per station)	70.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
2. Ship Stations	
a. New License (per application)	35.00
b. Modification of License (per application)	35.00
c. Renewal of License (per application)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
3. Operational Fixed Microwave Stations	
a. New License (per station)	155.00
b. Modification of License (per station)	155.00
c. Renewal of License (per station)	155.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	35.00
e. Assignments (per station)	155.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
4. Aviation (Ground Stations)	
a. New License (per station)	70.00
b. Modification of License (per station)	70.00
c. Renewal of License (per station)	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	100.00
e. Assignments (per station)	70.00
f. Transfers of Control (per station)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
5. Aircraft Stations	
a. New License (per application)	35.00
b. Modification of License (per application)	35.00
c. Renewal of License (per application)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
6. Land Mobile Radio Stations (including Special Emergency and Public Safety Stations)	
a. New License (per call sign)	35.00

b. Modification of License (per call sign)	35.00
c. Renewal of License (per call sign)	35.00
d. Special Temporary Authority (Initial, Modifications, Extensions)	35.00
e. Assignments (per station)	35.00
f. Transfers of Control (per call sign)	35.00
g. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
h. Reinstatement (per call sign)	35.00
i. Specialized Mobile Radio Systems-Base Stations	
(i) New License (per call sign)	35.00
(ii) Modification of License (per call sign)	35.00
(iii) Renewal of License (per call sign)	35.00
(iv) Waiting List (annual charge per application)	35.00
(v) Special Temporary Authority (Initial, Modifications, Extensions)	35.00
(vi) Assignments (per call sign)	35.00
(vii) Transfers of Control (per call sign)	35.00
(viii) Request for Waiver	
(1) Routine (per request)	105.00
(2) Non-Routine (per rule section/per station)	105.00
(ix) Reinstatements (per call sign)	35.00
j. Private Carrier Licenses	
(i) New License (per call sign)	35.00
(ii) Modification of License (per call sign)	35.00
(iii) Renewal of License (per call sign)	35.00
(iv) Special Temporary Authority (Initial, Modifications, Extensions)	35.00
(v) Assignments (per call sign)	35.00
(vi) Transfers of Control (per call sign)	35.00
(vii) Request for Waiver	
(1) Routine (per request)	105.00
(2) Non-Routine (per rule section/per station)	105.00
(viii) Reinstatements (per call sign)	35.00
7. General Mobile Radio Service	
a. New License (per call sign)	35.00
b. Modifications of License (per call sign)	35.00
c. Renewal of License (per call sign)	35.00
d. Request for Waiver	
(i) Routine (per request)	105.00
(ii) Non-Routine (per rule section/per station)	105.00
e. Special Temporary Authority (Initial, Modifications, Extensions)	35.00
f. Transfer of control (per call sign)	35.00
8. Restricted Radiotelephone Operator Permit	35.00
9. Request for Duplicate Station License (all services)	35.00
10. Hearing (Comparative, New, and Modifications)	6,760.00

EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO

1. Certification	
a. Receivers (except TV and FM receivers)	285.00
b. All Other Devices	735.00
c. Modifications and Class II Permissive Changes	35.00
d. Request for Confidentiality	105.00
2. Type Acceptance	
a. All Devices	370.00
b. Modifications and Class II Permissive Changes	35.00
c. Request for Confidentiality	105.00
3. Type Approval (all devices)	
a. With Testing (including Major Modifications)	1,465.00
b. Without Testing (including Minor Modifications)	170.00
c. Request for Confidentiality	105.00
4. Notifications	115.00
5. Advance Approval for Subscription TV System	2,255.00
a. Request for Confidentiality	105.00
6. Assignment of Grantee Code for Equipment Identification	35.00
7. Experimental Radio Service	
a. New Construction Permit and Station Authorization (per application)	35.00
b. Modification to Existing Construction Permit and Station Authorization (per application)	35.00
c. Renewal of Station Authorization (per application)	35.00

d. Assignment or Transfer of Control (per application)	35.00
e. Special Temporary Authority (per application)	35.00
f. Additional Charge for Applications Containing Requests to Withhold Information From Public Inspection (per application)	35.00

MASS MEDIA SERVICES

1. Commercial TV Stations	
a. New or Major Change Construction Permits	2,535.00
b. Minor Change	565.00
c. Hearing (Major/Minor Change, Comparative New, or Comparative Renewal)	6,760.00
d. License	170.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315)	565.00
(ii) Short Form (Form 316)	80.00
f. Renewal	100.00
g. Call Sign (New or Modification)	55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
i. Extension of Time to Construct or Replacement of CP	200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations	55.00
k. Petition for Rulemaking for New Community of License	1,565.00
l. Ownership Report (per report)	35.00
2. Commercial Radio Stations	
a. New and Major Change Construction Permit	
(i) AM Station	2,255.00
(ii) FM Station	2,030.00
b. Minor Change	
(i) AM Station	565.00
(ii) FM Station	565.00
c. Hearing (Major/Minor Change, Comparative New, or Comparative Renewal)	6,760.00
d. License	
(i) AM	370.00
(ii) FM	115.00
(iii) AM Directional Antenna	425.00
(iv) FM Directional Antenna	355.00
(v) AM Remote Control	35.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315)	565.00
(ii) Short Form (Form 316)	80.00
f. Renewal	100.00
g. Call Sign (New or Modification)	55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
i. Extension of Time to Construct or Replacement of CP	200.00
j. Permit to Deliver Programs to Foreign Broadcast Stations	55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel	1,565.00
l. Ownership Report (per report)	35.00
3. FM Translators	
a. New or Major Change Construction Permit	425.00
b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
4. TV Translators and LPTV Stations	
a. New or Major Change Construction Permit	425.00
b. License	85.00
c. Assignment or Transfer	80.00
d. Renewal	35.00
e. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
5. Auxiliary Services (Includes Remote Pickup stations, TV Auxiliary Broadcast stations, Aural Broadcast STL and Intercity Relay stations, and Low Power Auxiliary stations)	
a. Major Actions	85.00
b. Renewals	35.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00

6. FM/TV Boosters	
a. New and Major Change Construction Permits	425.00
b. License	85.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
7. International Broadcast Station	
a. New Construction Permit and Facilities Change CP	1,705.00
b. License	385.00
c. Assignment or Transfer (per station)	60.00
d. Renewal	95.00
e. Frequency Assignment and Coordination (per frequency hour)	35.00
f. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
8. Cable Television Service	
a. Cable Television Relay Service	
(i) Construction Permit	155.00
(ii) Assignment or Transfer	155.00
(iii) Renewal	155.00
(iv) Modification	155.00
(v) Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00
b. Cable Special Relief Petition	790.00
c. 76.12 Registration Statement (per statement)	35.00
d. Aeronautical Frequency Usage Notifications (per notice)	35.00
e. Aeronautical Frequency Usage Waivers (per waiver)	35.00
9. Direct Broadcast Satellite	
a. New or Major Change Construction Permit	
(i) Application for Authorization to Construct a Direct Broadcast Satellite	2,030.00
(ii) Issuance of Construction Permit & Launch Authority	19,710.00
(iii) License to Operate Satellite	565.00
b. Hearing (Comparative New, Major/Minor Modifications, or Comparative Renewal)	6,760.00
c. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)	100.00

COMMON CARRIER SERVICES

1. All Common Carrier Services	
a. Hearing (Comparative New or Major/Minor Modifications)	6,760.00
b. Development Authority . . . Same charge as regular authority in service unless otherwise indicated	
c. Formal Complaints and Pole Attachment Complaints Filing Fee	120.00
2. Domestic Public Land Mobile Stations (includes Base, Dispatch, Control & Repeater Stations)	
a. New or Additional Facility (per transmitter)	230.00
b. Major Modifications (per transmitter)	230.00
c. Fill In Transmitters (per transmitter)	230.00
d. Major Amendment to a Pending Application (per transmitter)	230.00
e. Assignment or Transfer	
(i) First Call Sign on Application	230.00
(ii) Each Additional Call Sign	35.00
f. Partial Assignment (per call sign)	230.00
g. Renewal (per call sign)	35.00
h. Minor Modification (per transmitter)	35.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Extension of Time to Construct (per application)	35.00
k. Notice of Completion of Construction (per application)	35.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Subsidiary Communications Service (per request)	100.00
n. Reinstatement (per application)	35.00
o. Combining Call Signs (per call sign)	200.00
p. Standby Transmitter (per transmitter/per location)	200.00
q. 900 MHz Nationwide Paging	
(i) Renewal	
(1) Network Organizer	35.00
(2) Network Operator (per operator/per city)	35.00
r. Air-Ground Individual License (per station)	
(i) Initial License	35.00
(ii) Renewal of License	35.00
(iii) Modification of License	35.00

3. Cellular Systems (per system)	
a. New or Additional Facilities	230.00
b. Major Modification	230.00
c. Minor Modification	60.00
d. Assignment or Transfer (including partial)	230.00
e. License to Cover Construction	
(i) Initial License for Wireline Carrier	595.00
(ii) Subsequent License for Wireline Carrier	60.00
(iii) License for Nonwireline Carrier	60.00
(iv) Fill In License (all carriers)	60.00
f. Renewal	35.00
g. Extension of Time to Complete Construction	35.00
h. Special Temporary Authority (per system)	200.00
i. Combining Cellular Geographic Service Areas (per system)	50.00
4. Rural Radio (includes Central Office, Interoffice, or Relay Facilities)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modification (per transmitter)	105.00
c. Major Amendment to Pending Application (per transmitter)	105.00
d. Minor Modification (per transmitter)	35.00
e. Assignments or Transfers	
(i) First Call Sign on Application	105.00
(ii) Each Additional Call Sign	35.00
(iii) Partial Assignment (per call sign)	105.00
f. Renewal (per call sign)	35.00
g. Extension of Time to Complete Construction (per application)	35.00
h. Notice of Completion of Construction (per application)	35.00
i. Special Temporary Authority (per frequency/per location)	200.00
j. Reinstatement (per application)	35.00
k. Combining Call Signs (per call sign)	200.00
l. Auxiliary Test Station (per transmitter)	200.00
m. Standby Transmitter (per transmitter/per location)	200.00
5. Offshore Radio Service (Mobile, Subscriber, and Central Stations; fees would also apply to any expansion of this service into coastal waters other than the Gulf of Mexico)	
a. New or Additional Facility (per transmitter)	105.00
b. Major Modifications (per transmitter)	105.00
c. Fill In Transmitters (per transmitter)	105.00
d. Major Amendment to Pending Application (per transmitter)	105.00
e. Minor Modification (per transmitter)	35.00
f. Assignment or Transfer	
(i) Each Additional Call Sign	35.00
(ii) Partial Assignment (per call sign)	105.00
g. Renewal (per call sign)	35.00
h. Extension of Time to Complete Construction (per application)	35.00
i. Reinstatement (per application)	35.00
j. Notice of Completion of Construction (per application)	35.00
k. Special Temporary Authority (per frequency/per location)	200.00
l. Combining Call Signs (per call sign)	200.00
m. Auxiliary Test Station (per transmitter)	200.00
n. Standby Transmitter (per transmitter/ per location)	200.00
6. Point-to-Point Microwave and Local Television Radio Service	
a. Conditional License (per station)	155.00
b. Major Modification of Conditional License or License Authorization (per station)	155.00
c. Certification of Completion of Construction (per station)	155.00
d. Renewal (per licensed station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00
f. Extension of Construction Authorization (per station)	55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
7. Multipoint Distribution Service (including multichannel MDS)	
a. Conditional License (per station)	155.00
b. Major Modification of Conditional License or License Authorization (per station)	155.00
c. Certification of Completion of Construction (per channel)	455.00
d. Renewal (per licensed station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00

f. Extension of Construction Authorization (per station)	110.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
8. Digital Electronic Message Service	
a. Conditional License (per nodal station)	155.00
b. Modification of Conditional License or License Authorization (per nodal station)	155.00
c. Certification of Completion of Construction (per nodal station)	155.00
d. Renewal (per licensed nodal station)	155.00
e. Assignment or Transfer	
(i) First Station on Application	55.00
(ii) Each Additional Station	35.00
f. Extension of Construction Authorization (per station)	55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)	70.00
9. International Fixed Public Radio (Public and Control Stations)	
a. Initial Construction Permit (per station)	510.00
b. Assignment or Transfer (per application)	510.00
c. Renewal (per license)	370.00
d. Modification (per station)	370.00
e. Extension of Construction Authorization (per station)	185.00
f. Special Temporary Authority or Request for Waiver (per request)	185.00
10. Fixed Satellite Transmit/Receive Earth Stations	
a. Initial Application (per station)	1,525.00
b. Modification of License (per station)	105.00
c. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	100.00
d. Developmental Station (per station)	1,000.00
e. Renewal of License (per station)	105.00
f. Special Temporary Authority or Waivers of Prior Construction Authorization (per request)	105.00
g. Amendment of Application (per station)	105.00
h. Extension of Construction Permit (per station)	105.00
11. Small Transmit/Receive Earth Stations (2 meters or less and operating in the 4/6 GHz frequency band)	
a. Lead Application	3,380.00
b. Routine Application (per station)	35.00
c. Modification of License (per station)	105.00
d. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	35.00
e. Developmental Station (per station)	1,000.00
f. Renewal of License (per station)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Authorization (per request)	105.00
h. Amendment of Application (per station)	105.00
i. Extension of Construction Permit (per station)	105.00
12. Receive Only Earth Stations	
a. Initial Application for Registration	230.00
b. Modification of License or Registration (per station)	105.00
c. Assignment or Transfer	
(i) First Station on Application	300.00
(ii) Each Additional Station	100.00
d. Renewal of License (per station)	105.00
e. Amendment of Application (per station)	105.00
f. Extension of Construction Permit (per station)	105.00
g. Waivers (per request)	105.00
13. Very Small Aperture Terminal (VSAT) Systems	
a. Initial Application (per system)	5,630.00
b. Modification of License (per system)	105.00
c. Assignment or Transfer of System	1,505.00
d. Developmental Station	1,000.00
e. Renewal of License (per system)	105.00
f. Special Temporary Authority or Waivers of Prior Construction Authorization (per request)	105.00
g. Amendment of Application (per system)	105.00
h. Extension of Construction Permit (per system)	105.00
14. Mobile Satellite Earth Stations	
a. Initial Application of Blanket Authorization	5,630.00
b. Initial Application for Individual Earth Station	1,350.00

c. Modification of License (per system)	105.00
d. Assignment or Transfer (per system)	1,505.00
e. Developmental Station	1,000.00
f. Renewal of License (per system)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Authorization (per request)	105.00
h. Amendment of Application (per system)	105.00
i. Extension of Construction Permit (per system)	105.00
15. Radio determination Satellite Earth Stations	
a. Initial Application of Blanket Authorization	5,630.00
b. Initial Application for Individual Earth Station	1,350.00
c. Modification of License (per system)	105.00
d. Assignment or Transfer (per system)	1,505.00
e. Developmental Station	1,000.00
f. Renewal of License (per system)	105.00
g. Special Temporary Authority or Waivers of Prior Construction Authorization (per request)	105.00
h. Amendment of Application (per system)	105.00
i. Extension of Construction Permit (per system)	105.00
16. Space Stations	
a. Application for Authority to Construct	2,030.00
b. Application for Authority to Launch & Operate	
(i) Initial Application	70,000.00
(ii) Replacement Satellite	70,000.00
c. Assignment or Transfer (per satellite)	5,000.00
d. Modification	5,000.00
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)	500.00
f. Amendment of Application	1,000.00
g. Extension of Construction Permit/Launch Authorization (per request)	500.00
17. Section 214 Applications	
a. Overseas Cable Construction	9,125.00
b. Cable Landing License	
(i) Common Carrier	1,025.00
(ii) Non-Common Carrier	10,150.00
c. Domestic Cable Construction	610.00
d. All Other 214 Applications	610.00
e. Special Temporary Authority (all services)	610.00
f. Assignments or Transfers (all services)	610.00
18. Recognized Private Operating Status (per application)	610.00
19. Telephone Equipment Registration	155.00
20. Tariff Filings	
a. Filing Fee	490.00
b. Special Permission Filing (per filing)	490.00
21. Accounting and Audits	
a. Field Audit	62,290.00
b. Review of Attest Audit	34,000.00
c. Review of Depreciation Update Study (Single State)	20,685.00
(i) Each Additional State	680.00
d. Interpretation of Accounting Rules (per request)	2,885.00
e. Petition for Waiver (per petition)	4,660.00

MISCELLANEOUS CHARGES

1. International Telecommunications Settlements Administrative Fee for Collections (per line item)	2.00
2. Radio Operator Examinations	
a. Commercial Radio Operator Examination	35.00
b. Renewal of Commercial Radio Operator License, Permit, or Certificate	35.00
c. Duplicate or Replacement Commercial Radio Operator License, Permit, or Certificate	35.00
3. Ship Inspections	
a. Inspection of Oceangoing Vessels Under Title III, Part II of the Communications Act (per inspection)	620.00
b. Inspection of Passenger Vessels Under Title III, Part III of the Communications Act (per inspection)	320.00
c. Inspection of Vessels Under the Great Lakes Agreement (per inspection)	360.00

d. Inspection of Foreign Vessels Under the Safety of Life at Sea (SOLAS) Convention (per inspection)	540.00
e. Temporary Waiver for Compulsorily Equipped Vessel	60.00".

(b) Conforming Amendments.—Section 8 of the Communications Act of 1934 is further amended— 47 USC 158.

(1) by striking the last sentence of subsection (a);

(2) in subsection (b)(1), by striking "April 1, 1987" and inserting "October 1, 1991"; and

(3) in subsection (d)(1)—

(A) by striking out "to the following radio services:" and inserting "(A) to governmental entities and nonprofit entities licensed in the following radio services:"; and

(B) by inserting "(B)" after "Emergency Radio, or".

(c) Effective Date; Implementation.—The amendments made by this section shall take effect on the date of enactment of this Act, and the Schedule of Charges required by the amendment made by subsection (a) of this section shall be implemented not later than 150 days after the date of enactment of this Act. 47 USC 158 note.

SEC. 3002. FINES AND PENALTIES UNDER THE COMMUNICATIONS ACT OF 1934.

(a) Discrimination and Preference by Common Carrier.—Section 202(c) of the Communications Act of 1934 (47 U.S.C. 202(c)) is amended—

(1) by striking "$500" and inserting "$6,000"; and

(2) by striking "$25" and inserting "$300".

(b) Failure in Filing of Schedule of Charges.—Section 203(e) of such Act (47 U.S.C. 203(e)) is amended—

(1) by striking "$500" and inserting "$6,000"; and

(2) by striking "$25" and inserting "$300".

(c) Noncompliance With Rate Orders.—Section 205(b) of such Act (47 U.S.C. 205(b)) is amended by striking "$1,000" and inserting "$12,000".

(d) Noncompliance With Line Extension Orders.—Section 214(d) of the Act (47 U.S.C. 214(d)) is amended by striking "$100" and inserting "$1,200".

(e) Failure to File Reports or Information.—Section 219(b) of the Act (47 U.S.C. 219(b)) is amended by striking "$100" and inserting "$1,200".

(f) Recordkeeping Failures.—Section 220(d) of the Act (47 U.S.C. 220(d)) is amended by striking "$500" and inserting "$6,000".

(g) Noncompliance With Shipboard Radio Requirements.—Section 364 of such Act (47 U.S.C. 362) is amended—

(1) by striking "$500" in subsection (a) and inserting "$5,000"; and

(2) by striking "$100" in subsection (b) and inserting "$1,000".

(h) Noncompliance With Passenger Vessel Radio Requirements.—Section 386 of such Act (47 U.S.C. 386) is amended—

(1) by striking "$500" in subsection (a) and inserting "$5,000"; and

(2) by striking "$100" in subsection (b) and inserting "$1,000".

(i) General Forfeitures.—Subsection (b) of section 503 of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended—

(1) by inserting "(1)" after "(b)" at the beginning of such subsection; and

(2) by striking paragraph (2) and inserting the following:

"(2)(A) If the violator is (i) a broadcast station licensee or permittee, (ii) a cable television operator, or (iii) an applicant for any broadcast or cable television operator license, permit, certificate, or other instrument or authorization issued by the Commission, the amount of any forfeiture penalty determined under this section shall not exceed $25,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $250,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(B) If the violator is a common carrier subject to the provisions of this Act or an applicant for any common carrier license, permit, certificate, or other instrument of authorization issued by the Commission, the amount of any forfeiture penalty determined under this subsection shall not exceed $100,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1,000,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(C) In any case not covered in subparagraph (A) or (B), the amount of any forfeiture penalty determined under this subsection shall not exceed $10,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $75,000 for any single act or failure to act described in paragraph (1) of this subsection.

"(D) The amount of such forfeiture penalty shall be assessed by the Commission, or its designee, by written notice. In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.".

Subtitle B—NRC User Fees

SEC. 3201. NRC USER FEES.

42 USC 2213.

Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Public Law 99-272) is amended to read as follows:

"(1) In general.—The Nuclear Regulatory Commission shall assess and collect annual charges from its licensees on a fiscal year basis, except that—

"(A) the maximum amount of the aggregate charges assessed pursuant to this paragraph in any fiscal year may not exceed an amount that, when added to other amounts collected by the Commission for such fiscal year under other provisions of law, is estimated to be equal to 33 percent of the costs incurred by the Commission with respect to such fiscal year, except that for fiscal year 1990 such maximum amount shall be estimated to be equal to 45 percent of the costs incurred by the Commission for fiscal year 1990; and

"(B) any such charge assessed pursuant to this paragraph shall be reasonably related to the regulatory service provided by the Commission and shall fairly reflect the cost to the Commission of providing such service.

"(2) **Establishment of amount by rule.**—The amount of the charges assessed pursuant to this paragraph shall be established by rule.".

TITLE IV—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

SEC. 4001. BUDGETARY TREATMENT OF THE POSTAL SERVICE FUND.

(a) **Treatment of the Postal Service Fund.**—

(1) **In general.**—Chapter 20 of title 39, United States Code, is amended by inserting after section 2009 the following:

"§ 2009a. Budgetary treatment of the Postal Service Fund

"Notwithstanding any other provision of law, the receipts and disbursements of the Postal Service Fund, including disbursements for administrative expenses incurred in connection with the Fund—

"(1) shall not be included in the totals of—

"(A) the budget of the United States Government as submitted by the President, or

"(B) the congressional budget (including allocations of budget authority and outlays provided therein);

"(2) shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government; and

"(3) shall be exempt from any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, and shall not be counted for purposes of calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985 nor counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, for any fiscal year.".

(2) **Chapter analysis.**—The analysis for chapter 20 of title 39, United States Code, is amended by inserting after the item relating to section 2009 the following:

"2009a. Budgetary treatment of the Postal Service Fund."

39 USC 2009a note.

(b) **Construction.**—Nothing in any amendment made by subsection (a) shall be considered to diminish the oversight responsibilities or authority of the Congress under law, rule, or regulation with respect to the budget and operations of the United States Postal Service.

39 USC 2009a note.

(c) **Applicability.**—The amendments made by this section shall apply with respect to budgets for fiscal years beginning after September 30, 1989.

SEC. 4002. FUNDING OF COST-OF-LIVING ADJUSTMENTS FOR CERTAIN POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.

(a) **In General.**—Section 8348 of title 5, United States Code, is amended by adding at the end the following:

"(m)(1) Notwithstanding any other provision of law, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to former employees of the Postal Service who first become annuitants by reason of separation from the Postal Service on or after October 1, 1986, or to their survivors, or to the survivors of individuals who die on or after October 1, 1986, while employed by the Postal Service, when the increase results from a cost-of-living adjustment under section 8340 of this title.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office after consultation with the Postal Service. The Postal Service shall pay the amount so determined to the Office in 15 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, and with the first payment thereof due at the end of the fiscal year in which the cost-of-living adjustment with respect to which the payment relates becomes effective.

"(3) In determining any amount for which the Postal Service is liable under this subsection, the amount of the liability shall be prorated to reflect only that portion of total service (used in computing the benefits involved) which is attributable to civilian service performed after June 30, 1971, as estimated by the Office.".

5 USC 8348 note.

(b) EFFECTIVE DATE; SIZE OF ANNUAL INSTALLMENTS TO FUND EARLIER COLAS; ADDITIONAL AMOUNT INITIALLY PAYABLE.—

(1) EFFECTIVE DATE.—This section and the amendment made by this section shall be effective as of October 1, 1986.

(2) SIZE OF ANNUAL INSTALLMENTS TO FUND PREVIOUS YEARS' COLAS.—Notwithstanding any provision of section 8348(m) of title 5, United States Code (as added by subsection (a)), the estimated increase in the unfunded liability referred to in paragraph (1) of such section 8348(m) shall be payable based on annual installments equal to—

(A) $100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1987;

(B) $6,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1988; and

(C) $15,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1989.

(3) ADDITIONAL AMOUNT PAYABLE.—

(A) GENERALLY.—The first payment made under the provisions of section 8348(m) of title 5, United States Code (as added by subsection (a)) shall include, in addition to the amount which would otherwise be payable at that time, an amount equal to the sum of any amounts which would have been due under those provisions in any prior year if this section had been enacted before October 1, 1986.

(B) COMPUTATION METHOD.—Subject to paragraph (2), the additional amount payable under this paragraph shall be computed in accordance with section 8348(m) of title 5, United States Code (as added by subsection (a)), and shall include interest. Interest on an amount—

(i) shall be computed at the rate used in the most recent valuation of the Civil Service Retirement System;

(ii) shall accrue, and be compounded, annually; and

(iii) shall be computed for the period beginning on the date by which such amount should have been paid (if this section had been enacted before October 1, 1986) and ending on the date on which payment is made.

SEC. 4003. FUNDING OF HEALTH BENEFIT PREMIUMS FOR SURVIVORS OF EMPLOYEES AND FORMER EMPLOYEES OF THE POSTAL SERVICE.

(a) GENERALLY.—Section 8906(g)(2) of title 5, United States Code, is amended by inserting "or for a survivor of such an individual or of an individual who died on or after October 1, 1986, while employed by the United States Postal Service," after "1986,".

5 USC 8906 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989, and shall apply with respect to amounts payable for periods beginning on or after that date.

SEC. 4004. POSTAL SERVICE PAYMENTS TO THE EMPLOYEES' COMPENSATION FUND.

(a) AMENDMENT.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding any provision of section 8147 of title 5, whenever the Secretary of Labor furnishes a statement to the Postal Service indicating an amount due from the Postal Service under subsection (b) of that section, the Postal Service shall make the deposit required pursuant to that statement (and any additional payment under subsection (c) of that section, to the extent that it relates to the period covered by such statement) not later than 30 days after the date on which such statement is so furnished. Any deposit (and any additional payment) which is subject to the preceding sentence shall, once made, remain available without fiscal year limitation.".

39 USC 2003 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1989.

5 USC 8343a note.

SEC. 4005. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT FOR CERTAIN INDIVIDUALS ELECTING ALTERNATIVE FORMS OF ANNUITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (c), any lump-sum credit payable to an employee or Member pursuant to the election of an alternative form of annuity by such employee or Member under section 8343a or section 8420a of title 5, United States Code, shall be paid in accordance with the schedule under subsection (b) (instead of the schedule which would otherwise apply), if the commencement date of the annuity payable to such employee or Member occurs after December 2, 1989, and before October 1, 1990.

(b) SCHEDULE OF PAYMENTS.—The schedule of payment of any lump-sum credit subject to this section is as follows:

(1) 50 percent of the lump-sum credit shall be payable on the date on which, but for the enactment of this section, the full amount of the lump-sum credit would otherwise be payable.

(2) The remainder of the lump-sum credit shall be payable on the date which occurs 12 months after the date described in paragraph (1).

An amount payable in accordance with paragraph (2) shall be payable with interest, computed using the rate under section 8334(e)(3) of title 5, United States Code.

Regulations.

(c) EXCEPTIONS.—The Office of Personnel Management shall prescribe regulations to provide that, unless the individual involved indicates otherwise by written notice to the Office (submitted at such time and in such manner as the regulations may require), this section shall not apply—

(1) in the case of any individual who is separated from Government service involuntarily, other than for cause on charges of misconduct or delinquency; and

(2) in the case of any individual as to whom the application of this section would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

(d) Annuity Benefits Not Affected.—Nothing in this section shall affect the commencement date, the amount, or any other aspect of any annuity benefits payable under section 8343a or section 8420a of title 5, United States Code.

(e) Definitions.—For purposes of this section, the terms "lump-sum credit", "employee", and "Member" each has the meaning given such term by section 8331 or section 8401 of title 5, United States Code, as appropriate.

SEC. 4006. COORDINATION.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987 (2 U.S.C. 909), any transfer resulting from any provision of this title or any of the amendments made by this title is a necessary (but secondary) result of a significant policy change (within the meaning of section 202(b) of such Act).

TITLE V—VETERANS PROGRAMS

SEC. 5001. EXTENSION OF LOAN FEE.

Section 1829(c) of title 38, United States Code, is amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

SEC. 5002. POSTPONEMENT OF RESTRICTIONS ON WITHOUT-RECOURSE VENDEE LOAN SALES.

Section 1833(a)(3) of title 38, United States Code, is amended by striking out "October 1, 1989" each place it appears and inserting in lieu thereof "October 1, 1990".

SEC. 5003. PROCEEDS OF VENDEE LOAN SALES.

(a) In General.—Section 1833 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the amount received from the sale of any note evidencing a loan secured by real property described in subsection (a)(1) of this section shall be credited, without any reduction and for the fiscal year in which the amount is received, as offsetting collections of—

"(1) the revolving fund for which a fee under section 1829 of this title was collected (or was exempted from being collected) at the time of the original guaranty of the loan that was secured by the same property; or

"(2) in any case in which there was no requirement of (or exemption from) a fee at the time of the original guaranty of the loan that was secured by the same property, the Loan Guaranty Revolving Fund; and the total so credited to any revolving fund for a fiscal year shall offset outlays attributed to such revolving fund during such fiscal year.".

(b) EFFECTIVE DATE.—Subsection (e) of section 1833 of title 38, United States Code, as added by subsection (a), shall apply with respect to amounts referred to in such subsection (e) received on or after October 1, 1989.

38 USC 1833 note.

TITLE VI—MEDICARE, MEDICAID, MATERNAL AND CHILD HEALTH, AND OTHER HEALTH PROVISIONS

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Subpart A—General Provisions

SEC. 6001. EXTENSION OF REDUCTIONS UNDER ORIGINAL SEQUESTER ORDER AND APPLICABILITY OF NEW SEQUESTER ORDER.

2 USC 902 note.

Notwithstanding any other provision of law (including section 11002 or any other provision of this Act, other than section 6201), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on October 16, 1989, pursuant to section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through December 31, 1989, with respect to payments for items and services under part A of such title (including payments under section 1886 of such title attributable or allocated to such part). Each such payment made for items and services provided during fiscal year 1990 after such date shall be increased by 1.42 percent above what it would otherwise be under this Act.

SEC. 6002. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEAR 1990.

Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(1) in clause (iii), by striking "and";

(2) in clause (iv), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(v) 15 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during the period beginning January 1, 1990, and ending September 30, 1990.".

Rural areas.

SEC. 6003. PROSPECTIVE PAYMENT HOSPITALS.

(a) CHANGES IN HOSPITAL UPDATE FACTORS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) by striking "and" at the end of subclause (IV),

(B) in subclause (V), by striking "1990" and inserting "1991" and redesignating such subclause as subclause (VI), and

(C) by inserting after subclause (IV) the following new subclause:

Urban areas.

"(V) for fiscal year 1990, the market basket percentage increase plus 4.22 percentage points for hospitals located in a rural area, the market basket percentage increase plus 0.12 percentage points for hospitals located in a large urban area, and the market basket percentage increase minus 0.53 percentage points for hospitals located in other urban areas, and".

42 USC 1395ww note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1990.

42 USC 1395ww note.

(3) INDEXING OF FUTURE APPLICABLE PERCENTAGE INCREASES.—For discharges occurring on or after October 1, 1990, the applicable percentage increase (described in section 1886(b)(3)(B) of the Social Security Act) for discharges occurring during fiscal year 1990 is deemed to have been such percentage increase as amended by paragraph (1).

(b) REDUCTION IN DRG WEIGHTING FACTORS FOR FISCAL YEAR 1990; FUTURE ANNUAL RECALIBRATION OF DRG WEIGHTS ON BUDGET-NEUTRAL BASIS.—Section 1886(d)(4)(C) of such Act (42 U.S.C. 1395ww(d)(4)(C)) is amended—

(1) by striking "(C)" and inserting "(C)(i)"; and

(2) by adding at the end the following new clauses:

"(ii) For discharges in fiscal year 1990, the Secretary shall reduce the weighting factor for each diagnosis-related group by 1.22 percent.

"(iii) Any such adjustment under clause (i) for discharges in a fiscal year (beginning with fiscal year 1991) shall be made in a manner that assures that the aggregate payments under this subsection for discharges in the fiscal year are not greater or less than those that would have been made for discharges in the year without such adjustment.

Reports.

"(iv) The Secretary shall include recommendations with respect to adjustments to weighting factors under clause (i) in the annual report to Congress required under subsection (e)(3)(B).".

(c) INCREASE IN DISPROPORTIONATE SHARE ADJUSTMENT.—

(1) CHANGE IN FORMULA.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)) is amended—

(A) in clause (iv)(I), by striking "the following formula" and all that follows through "(as defined in clause (vi));" and inserting "the applicable formula described in clause (vii);", and

(B) by adding at the end the following new clause:

"(vii) The formula used to determine the disproportionate share adjustment percentage for a cost reporting period for a hospital described in clause (iv)(I) is—

"(I) in the case of such a hospital with a disproportionate patient percentage (as defined in clause (vi)) greater than 20.2, (P-20.2)(.65)+5.62, or

"(II) in the case of any other such hospital, (P-15)(.6)+2.5, where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi)).".

(2) TREATMENT OF RURAL HOSPITALS FOR DISPROPORTIONATE SHARE CALCULATION.—Section 1886(d)(5)(F) of such Act (42 U.S.C. 1395ww(d)(5)(F)), as amended by paragraph (1), is amended—

(A) in clause (iv)—

(i) in subclause (II), by striking "or",

(ii) in subclause (III), by inserting "in subclause (IV) or (V) or" after "described",

(iii) by striking the period at the end of subclause (III) and inserting a semicolon, and

(iv) by adding at the end the following new subclauses:

"(IV) is located in a rural area, is classified as a rural referral center under subparagraph (C), and is classified as a sole community hospital under subparagraph (D), is equal to 10 percent or, if greater, the percent determined in accordance with the applicable formula described in clause (viii);

"(V) is located in a rural area, is classified as a rural referral center under subparagraph (C), and is not classified as a sole community hospital under subparagraph (D), is equal to the percent determined in accordance with the applicable formula described in clause (viii); or

"(VI) is located in a rural area, is classified as a sole community hospital under subparagraph (D), and is not classified as a rural referral center under subparagraph (C), is 10 percent.",

(B) in clause (v)—

(i) in subclause (III), by striking "area" and inserting "area and is not described in subclause (II)",

(ii) by redesignating subclauses (II) and (III) as subclauses (III) and (IV), and

(iii) by inserting after subclause (I) the following new subclause:

"(II) 30 percent, if the hospital is located in a rural area and has more than 100 beds, or is located in a rural area and is classified as a sole community hospital under subparagraph (D),", and

(C) by adding at the end the following new clause:

"(viii) The formula used to determine the disproportionate share adjustment percentage for a cost reporting period for a hospital described in clause (iv)(IV) or (iv)(V) is the percentage determined in accordance with the following formula: (P-30)(.6)+4.0, where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi)).".

(3) INCREASE FOR HOSPITALS WITH DISPROPORTIONATE INDIGENT CARE REVENUES.—Section 1886(d)(5)(F)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(F)(iii)) is amended by striking "25 percent" and inserting "30 percent".

42 USC 1395ww note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to discharges occurring on or after April 1, 1990.

42 USC 1395ww note.

(d) EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION.—Any hospital that is classified as a regional referral center under section 1886(d)(5)(C) of the Social Security Act as of September 30, 1989, including a hospital so classified as a result of section 9302(d)(2) of the Omnibus Budget Reconciliation Act of 1986, shall continue to be classified as a regional referral center for cost reporting periods beginning on or after October 1, 1989, and before October 1, 1992.

(e) CRITERIA AND PAYMENT FOR SOLE COMMUNITY HOSPITALS.—

(1) IN GENERAL.—(A) Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended—

(i) by transferring clause (iv) of subparagraph (C) to the end and by redesignating it as subparagraph (H),

(ii) by transferring clause (iii) of subparagraph (C) to the end and by redesignating it as subparagraph (I),

(iii) in subparagraph (D), by striking "(D)(i)" and inserting "(E)(i)", and

(iv) by amending clause (ii) of subparagraph (C) to read as follows:

"(D)(i) For any cost reporting period beginning on or after April 1, 1990, with respect to a subsection (d) hospital which is a sole community hospital, payment under paragraph (1)(A) shall be—

"(I) an amount based on 100 percent of the hospital's target amount for the cost reporting period, as defined in subsection (b)(3)(C), or

"(II) the amount determined under paragraph (1)(A)(iii),

whichever results in greater payment to the hospital.

"(ii) In the case of a sole community hospital that experiences, in a cost reporting period compared to the previous cost reporting period, a decrease of more than 5 percent in its total number of inpatient cases due to circumstances beyond its control, the Secretary shall provide for such adjustment to the payment amounts under this subsection (other than under paragraph (9)) as may be necessary to fully compensate the hospital for the fixed costs it incurs in the period in providing inpatient hospital services, including the reasonable cost of maintaining necessary core staff and services.

"(iii) The term 'sole community hospital' means any hospital—

"(I) that the Secretary determines is located more than 35 road miles from another hospital, or

"(II) that, by reason of factors such as the time required for an individual to travel to the nearest alternative source of appropriate inpatient care (in accordance with standards promulgated by the Secretary), location, weather conditions, travel conditions, or absence of other like hospitals (as determined by the Secretary), is the sole source of inpatient hospital services reasonably available to individuals in a geographic area who are entitled to benefits under part A.

"(iv) The Secretary shall promulgate a standard for determining whether a hospital meets the criteria for classification as a sole community hospital under clause (iii)(II) because of the time required for an individual to travel to the nearest alternative source of appropriate inpatient care.".

(B) Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)) is amended—

(i) in subparagraph (A), by striking "(A) For purposes of this subsection" and inserting "(A) Except as provided in subparagraph (C), for purposes of this subsection", and

(ii) by adding at the end the following new subparagraph:

"(C) In the case of a hospital that is a sole community hospital (as defined in subsection (d)(5)(D)(iii)), the term 'target amount' means—

"(i) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital—

"(I) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period (in this subparagraph referred to as the 'base cost reporting period') preceding the first cost reporting period for which this subsection was in effect with respect to such hospital, increased (in a compounded manner) by—

"(II) the applicable percentage increases applied to such hospital under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting period, or

"(ii) with respect to a later cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B)(i) for discharges occurring in the fiscal year in which that later cost reporting period begins.

There shall be substituted for the base cost reporting period described in clause (i) a hospital's cost reporting period (if any) beginning during fiscal year 1987 if such substitution results in an increase in the target amount for the hospital.".

(2) CONFORMING AMENDMENTS.—Such Act is further amended—

(A) in section 1833(h)(1)(D), by striking "the last sentence of section 1886(d)(5)(C)(ii)" and inserting "section 1886(d)(5)(D)(iii)"; 42 USC 1395*l*.

(B) in section 1886(d)(5)(C)(i)— 42 USC 1395ww.

(i) by striking "(C)(i)(I)" and inserting "(C)(i)", and

(ii) by redesignating subclause (II) as clause (ii) and by striking "subclause (I)" each place it appears in such clause and inserting "clause (i)";

42 USC 1395ww.

(C) in section 1886(d)(9)(B)(ii)(IV), by striking "(D)(v)" and inserting "(D)(iii)";

(D) in section 1886(d)(9)(D)—

(i) by striking clause (iv),

(ii) by transferring clause (iii) to the end and redesignating it as clause (iv), and by striking "(C)(iii)" and inserting "(H)", and

(iii) by redesignating clause (v) as clause (iii); and

(E) in section 1886(g)(3)(B), by striking "(d)(5)(C)(ii)" and inserting "(d)(5)(D)(iii)".

42 USC 1395ww note.

(3) CONTINUATION OF SOLE COMMUNITY HOSPITAL DESIGNATION FOR CURRENT SOLE COMMUNITY HOSPITALS.—Any hospital classified as a sole community hospital under section 1886(d)(5)(C)(ii) of the Social Security Act on the date of the enactment of this Act that will no longer be classified as a sole community hospital after such date as a result of the amendments made by paragraph (1) shall continue to be classified as a sole community hospital for purposes of section 1886(d)(5)(D) of such Act.

(f) CRITERIA AND PAYMENT FOR MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(1) CRITERIA.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)), as amended by subsection (e)(1)(A), is further amended by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) For any cost reporting period beginning on or after April 1, 1990, and ending on or before March 31, 1993, with respect to a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) shall be—

"(I) an amount based on 100 percent of the hospital's target amount for the cost reporting period, as defined in subsection (b)(3)(D), or

"(II) the amount determined under paragraph (1)(A)(iii),

whichever results in the greater payment to the hospital.

"(ii) In the case of a medicare dependent, small rural hospital that experiences, in a cost reporting period compared to the previous cost reporting period, a decrease of more than 5 percent in its total number of inpatient cases due to circumstances beyond its control, the Secretary shall provide for such adjustment to the payment amounts under this subsection (other than under paragraph (9)) as may be necessary to fully compensate the hospital for the fixed costs it incurs in the period in providing inpatient hospital services, including the reasonable cost of maintaining necessary core staff and services.

"(iii) The term 'medicare-dependent, small rural hospital' means, with respect to any cost reporting period to which clause (i) applies, any hospital—

"(I) located in a rural area,

"(II) that has not more than 100 beds,

"(III) that is not classified as a sole community hospital under subparagraph (D), and

"(IV) for which not less than 60 percent of its inpatient days or discharges during the cost reporting period beginning in fiscal year 1987 were attributable to inpatients entitled to benefits under part A.".

(2) **Payment.**—Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)), as amended by subsection (e)(1)(B), is further amended—

(i) in subparagraph (A), by striking "subparagraph (C)" and inserting "subparagraphs (C) and (D)", and

(ii) by adding at the end the following new subparagraph:

"(D) For cost reporting periods ending on or before March 31, 1993, in the case of a hospital that is a medicare-dependent, small rural hospital (as defined in subsection (d)(5)(G)), the term 'target amount' means—

"(i) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital—

"(I) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period (in this subparagraph referred to as the 'base cost reporting period') preceding the first cost reporting period for which this subsection was in effect with respect to such hospital, increased (in a compounded manner) by—

"(II) the applicable percentage increases applied to such hospital under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting period, or

"(ii) with respect to a later cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B)(i) for discharges occurring in the fiscal year in which that later cost reporting period begins.

There shall be substituted for the base cost reporting period described in clause (i) a hospital's cost reporting period (if any) beginning during fiscal year 1987 if such substitution results in an increase in the target amount for the hospital.".

(g) **Essential Access Community Hospital Program.**—

(1) **Establishment of program.**—

(A) **In general.**—Part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is amended by adding at the end the following new section:

"ESSENTIAL ACCESS COMMUNITY HOSPITAL PROGRAM

Grants.
State and local governments.
42 USC 1395i-4.

"Sec. 1820. (a) **In General.**—There is hereby established a program under which the Secretary—

"(1) shall make grants to not more than 7 States to carry out the activities described in subsection (d)(1);

"(2) shall make grants to eligible hospitals and facilities (or consortia of hospitals and facilities) to carry out the activities described in subsection (d)(2); and

"(3) shall designate (under subsection (i)) hospitals and facilities located in States receiving grants under paragraph (1) as essential access community hospitals or rural primary care hospitals.

"(b) **Eligibility of States for Grants.**—A State is eligible to receive a grant under subsection (a)(1) only if the State submits to the Secretary, at such time and in such form as the Secretary may require, an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (g)) in the State,

"(ii) promotes regionalization of rural health services in the State,

"(iii) improves access to hospital and other health services for rural residents of the State, and

"(iv) enhances the provision of emergency and other transportation services related to health care;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State and rural hospitals located in the State (or, in the case of a State in the process of developing such plan, that assures the Secretary that it will consult with its State hospital association and rural hospitals located in the State in developing such plan); and

"(C) has designated, or is in the process of designating, rural non-profit or public hospitals or facilities located in the State as essential access community hospitals or rural primary care hospitals within such networks; and

"(2) such other information and assurances as the Secretary may require.

"(c) Eligibility of Hospitals and Consortia for Grants.—

"(1) In general.—Except as provided in paragraph (3), a hospital or facility is eligible to receive a grant under subsection (a)(2) only if the hospital or facility—

"(A) is located in a State receiving a grant under subsection (a)(1);

"(B) is designated as an essential access community hospital or a rural primary care hospital by the State in which it is located or is a member of a rural health network (as defined in subsection (g));

"(C) submits to the State in which it is located and to the Secretary, at such time and in such form as the Secretary may require, an application containing such information and assurances as the Secretary may require; and

"(D) the State in which the hospital or facility is located certifies to the Secretary that—

"(i) the receiving of such a grant by the hospital or facility is consistent with the State's rural health care plan (described in subsection (b)(1)(A)), and

"(ii) the State has approved the application submitted under subparagraph (C).

"(2) Treatment of consortia.—A consortium of hospitals or facilities each of which is part of the same rural health network is eligible to receive a grant under subsection (a)(2) if each of its members would individually be eligible to receive such a grant.

"(3) Eligibility of RPC hospitals not located in a State receiving grant.—A facility designated as a rural primary care hospital by the Secretary under subsection (i)(2)(C) shall be eligible to receive a grant under subsection (a)(2).

"(d) Activities for Which Grants May Be Used.—

Communications and telecommunications.
Transportation.

"(1) Grants to States.—A State shall use a grant received under subsection (a)(1) to carry out the demonstration program established under this section in the State. Such grant may be used for engaging in activities relating to planning and implementing a rural health care plan and rural health networks, designating hospitals or facilities in the State as essential access community hospitals or rural primary care hospitals, and developing and supporting communication and emergency transportation systems.

"(2) GRANTS TO HOSPITALS, FACILITIES, AND CONSORTIA.—A hospital or facility shall use a grant received under subsection (a)(2) to finance the costs it incurs in converting itself to a rural primary care hospital or an essential access community hospital or in becoming part of a rural health network in the State in which it is located, including capital costs, costs incurred in the development of necessary communications systems, and costs incurred in the development of an emergency transportation system. A consortium shall use a grant received under subsection (a)(2) to finance the costs it incurs in converting hospitals or facilities that are part of the consortium into rural primary care hospitals or in developing and implementing a rural health network consisting of its members in the State in which it is located, including capital costs, costs incurred in the development of necessary communications systems, and costs incurred in the development of an emergency transportation system.

"(e) DESIGNATION BY STATE OF ESSENTIAL ACCESS COMMUNITY HOSPITALS.—A State may designate a hospital as an essential access community hospital only if the hospital—

"(1) is located in a rural area (as defined in section 1886(d)(2)(D));

"(2)(A) is located more than 35 miles from any hospital that either (i) has been designated as an essential access community hospital, (ii) is classified by the Secretary as a rural referral center under section 1886(d)(5)(C), or (iii) is located in an urban area that meets the criteria for classification as a regional referral center under such section, or (B) meets such other criteria relating to geographic location as the State may impose with the approval of the Secretary;

"(3) has at least 75 inpatient beds or is located more than 35 miles from any other hospital;

"(4) has in effect an agreement to provide emergency and medical backup services to rural primary care hospitals participating in the rural health network of which it is a member and throughout its service area; Contracts.

"(5) has in effect an agreement, with each rural primary care hospital participating in the rural health network of which it is a member, to accept patients transferred from such primary care hospital, to receive data from and transmit data to such primary care hospital, and to provide staff privileges to physicians providing care at such primary care hospital; and

"(6) meets any other requirements imposed by the State with the approval of the Secretary.

"(f) DESIGNATION BY STATE OF RURAL PRIMARY CARE HOSPITALS.—

"(1) CRITERIA FOR DESIGNATION.—A State may designate a facility as a rural primary care hospital only if the facility—

"(A) is located in a rural area (as defined in section 1886(d)(2)(D));

"(B) at the time such facility applies to the State for designation as a rural primary care hospital, is a hospital with a participation agreement in effect under section

1866(a) and had not been found, on the basis of a survey under section 1864, to be in violation of any requirement to participate as a hospital under this title;

"(C) has ceased, or agrees (upon the approval of such application) to cease, providing inpatient care (except as required under subparagraph (F));

Contracts.
Communications and telecommunications.

"(D) in the case of a facility that is a member of a rural health network, has in effect an agreement to participate with other hospitals and facilities in the communications system of such network, including the network's system for the electronic sharing of patient data, including telemetry and medical records, if the network has in operation such a system;

"(E) makes available 24-hour emergency care;

"(F) provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions) to patients requiring stabilization before discharge or transfer to a hospital;

"(G) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraph (E),

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis, and

"(iii) the inpatient care described in subparagraph (F) may be provided by a physician's assistant or nurse practitioner, subject to the oversight of a physician; and

"(H) meets the requirements of subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of that paragraph.

"(2) PREFERENCE GIVEN TO HOSPITALS OR FACILITIES PARTICIPATING IN RURAL HEALTH NETWORK.—In designating facilities as rural primary care hospitals under paragraph (1), the State shall give preference to hospitals or facilities participating in a rural health network.

"(3) PERMITTING RURAL PRIMARY CARE HOSPITALS TO MAINTAIN SWING BEDS.—Nothing in this subsection shall be construed to prohibit a State from designating a facility as a rural primary care hospital solely because the facility has entered into an agreement with the Secretary under section 1883 under which the facility's inpatient hospital facilities may be used for the furnishing of extended care services.

"(g) RURAL HEALTH NETWORK DEFINED.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization—

"(1) consisting of—

"(A) at least 1 hospital that—

"(i) the State has designated or plans to designate as an essential access community hospital under subsection (b)(1)(C),

"(ii) is classified by the Secretary as a rural referral center under section 1886(d)(5)(C), or

"(iii) is located in an urban area and meets the criteria for classification as a regional referral center under such section, and

"(B) at least 1 facility that the State has designated or plans to designate as a rural primary care hospital, and

"(2) the members of which have entered into agreements regarding—

"(A) patient referral and transfer,

"(B) the development and use of communications systems, including (where feasible) telemetry systems and systems for electronic sharing of patient data, and

"(C) the provision of emergency and non-emergency transportation among the members.

"(h) LIMIT ON AMOUNT OF GRANT TO HOSPITAL OR FACILITY.—A grant made to a hospital or facility under subsection (a)(2) may not exceed $200,000.

"(i) ELIGIBILITY OF HOSPITALS OR FACILITIES FOR DESIGNATION BY SECRETARY.—

"(1) ESSENTIAL ACCESS COMMUNITY HOSPITAL.—(A) The Secretary shall designate a hospital as an essential access community hospital if the hospital—

"(i) is located in a State receiving a grant under subsection (a)(1);

"(ii) is designated as an essential access community hospital by the State in which it is located (except as provided in subparagraph (B)); and

"(iii) meets such other criteria as the Secretary may require.

"(B) In the case of a hospital that is not eligible for designation as an essential access community hospital under this paragraph solely because it is not designated as an essential access community hospital by the State in which it is located, the Secretary may designate such hospital as an essential access community hospital under this paragraph if the hospital is not so designated by the State in which it is located solely because of its failure to meet the criteria described in paragraph (3) of subsection (e).

"(2) RURAL PRIMARY CARE HOSPITAL.—(A) The Secretary shall designate a facility as a rural primary care hospital if the facility—

"(i) is located in a State receiving a grant under subsection (a)(1);

"(ii) is designated as a rural primary care hospital by the State in which it is located (except as provided in subparagraph (B)); and

"(iii) meets such other criteria as the Secretary may require.

"(B) In the case of a facility that is not eligible for designation as a rural primary care hospital under this paragraph solely because it is not designated as a rural primary care hospital by the State in which it is located, the Secretary may designate such facility as a rural primary care hospital under this paragraph if the facility is not so designated by the State in which it is located solely because of its failure to meet the criteria described in subparagraphs (C), (F), or (G) of subsection (f)(1).

"(C) The Secretary may designate not more than 15 facilities as rural primary care hospitals under this paragraph that do not meet the requirements of clauses (i) and (ii) of subparagraph (A) if such a facility meets the criteria described in subparagraphs (A), (B), and (E) of subsection (f)(1), except that nothing in this subparagraph shall be construed to prohibit the Secretary from designating a facility as a rural primary care hospital solely because the facility has entered into an agreement with the Secretary under section 1883 under which the facility's inpatient hospital facilities may be used for the furnishing of extended care services.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for each of the fiscal years 1990, 1991, and 1992—

"(1) $10,000,000 for grants to States under subsection (a)(1); and

"(2) $15,000,000 for grants to hospitals, facilities, and consortia under subsection (a)(2).".

(B) MODIFICATION OF RURAL HEALTH CARE TRANSITION GRANT PROGRAM.—(i) Section 4005(e) of the Omnibus Budget Reconciliation Act of 1987 is amended—

42 USC 1395ww note.

(I) in paragraph (1), by adding at the end the following new sentence: "Grants under this paragraph may be used to provide instruction and consultation (and such other services as the Administrator determines appropriate) via telecommunications to physicians in such rural areas (within the meaning of section 1886(d)(2)(D) of the Social Security Act) as are designated either class 1 or class 2 health manpower shortage areas under section 332(a)(1)(A) of the Public Health Service Act.",

(II) in paragraph (3)(A), by striking "an application to the Governor" and inserting "an application to the Administrator and a copy of such application to the Governor",

(III) in paragraph (3)(B), by striking "any application" and all that follows through "accompanied by" and inserting "to the Administrator, within a reasonable time after receiving a copy of an application pursuant to subparagraph (A),",

(IV) in paragraph (6), by striking "2 years" and inserting "3 years",

(V) in paragraph (7)(A), by striking "(D)" and inserting "(B)",

(VI) in paragraph (7)(C), by striking the period at the end and inserting the following: ", except that this limitation shall not apply with respect to a grant used for the purposes described in subparagraph (D).",

(VII) by adding at the end of paragraph (7) the following new subparagraph:

"(D) A hospital may use a grant received under this subsection to develop a plan for converting itself to a rural primary care hospital (as described in section 1820 of the Social Security Act) or to develop a rural health network (as defined in section 1820(g) of such Act) in the State in which it is located if the State is receiving a grant under section 1820(a)(1).", and

(VIII) in paragraph (9), by striking "each of the fiscal years 1989 and 1990" and inserting "fiscal year 1989 and $25,000,000 for each of the fiscal years 1990, 1991, and 1992".

Effective date.
42 USC 1395ww note.

(ii) The amendments made by clause (i) shall apply with respect to applications for grants under the Rural Health Care Transition Grant Program described in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987 submitted on or after October 1, 1989, except that the amendments made by subclauses (V) and (VII) of such clause shall take effect on the date of the enactment of this Act.

(2) TREATMENT OF ESSENTIAL ACCESS COMMUNITY HOSPITALS AS SOLE COMMUNITY HOSPITALS.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) (as redesignated and amended by subsection (e)(1)(A)) is further amended—

(A) in clause (iii)—

(i) in subclause (I), by striking "or",

(ii) in subclause (II), by striking the period at the end and inserting ", or", and

(iii) by adding at the end the following new subclause:

"(III) that is designated by the Secretary as an essential access community hospital under section 1820(i)(1).", and

(B) by adding at the end the following new clause:

"(v) If the Secretary determines that, in the case of a hospital designated by the Secretary as an essential access community hospital under section 1820(i)(1), the hospital has incurred increases in reasonable costs during a cost reporting period as a result of becoming a member of a rural health network (as defined in section 1820(g)) in the State in which it is located, and in incurring such increases, the hospital will increase its costs for subsequent cost reporting periods, the Secretary shall increase the hospital's target amount under subsection (b)(3)(C) to account for such incurred increases.".

(3) COVERAGE OF, AND PAYMENT FOR, INPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(A) DEFINITIONS.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Primary Care Hospital; Rural Primary Care Hospital Services

"(mm)(1) The term 'rural primary care hospital' means a facility designated by the Secretary as a rural primary care hospital under section 1820(i)(2).

"(2) The term 'inpatient rural primary care hospital services' means items and services, furnished to an inpatient of a rural primary care hospital by such a hospital, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(B) Coverage and payment.—(i) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)), as restored by the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by inserting "and inpatient rural primary care hospital services" before the semicolon.

(ii) Section 1814(a) of such Act (42 U.S.C. 1395f(a)) is amended—

(I) by striking "and" at the end of paragraph (6),

(II) by striking the period at the end of paragraph (7) and inserting "; and", and

(III) by inserting after paragraph (7) the following new paragraph:

"(8) in the case of inpatient rural primary care hospital services, a physician certifies that such services were required to be immediately furnished on a temporary, inpatient basis.".

(iii) Section 1814 of such Act is further amended—

(I) in subsection (b), by inserting ", other than a rural primary care hospital providing inpatient rural primary care hospital services," after "providing hospice care", and

(II) by adding at the end the following new subsection:

"Payment for Inpatient Rural Primary Care Hospital Services

"(l)(1) The amount of payment under this part for inpatient rural primary care hospital services—

"(A) in the case of the first 12-month cost reporting period for which the facility operates as such a hospital, is the reasonable costs of the facility in providing inpatient rural primary care hospital services during such period, as such costs are determined on a per diem basis, and

"(B) in the case of a later reporting period, is the per diem payment amount established under this paragraph for the preceding 12-month cost reporting period, increased by the applicable percentage increase under section 1886(b)(3)(B)(i) for that particular cost reporting period applicable to hospitals located in a rural area.

The payment amounts otherwise determined under this paragraph shall be reduced, to the extent necessary, to avoid duplication of any payment made under section 1820(a)(2) (or under section 4005(e) of the Omnibus Budget Reconciliation Act of 1987) to cover the provision of inpatient rural primary care hospital services.

"(2) The Secretary shall develop a prospective payment system for determining payment amounts for inpatient rural primary care hospital services under this part furnished on or after January 1, 1993.".

(C) Treatment of rural primary care hospitals as providers of services.—(i) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by inserting "rural primary care hospital," after "hospital,".

(ii) Section 1863 of such Act (42 U.S.C. 1395z) is amended by striking "and (jj)(3)" and inserting "(jj)(3), and (mm)(1)".

(iii) The first sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting ", a rural primary care hospital, as defined in section 1861(mm)(1)," after "1861(aa)(2)".

(iv) The third sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by striking "or 1861(dd)(2)" and inserting "1861(dd)(2), or 1861(mm)(1)".

(D) CONFORMING AMENDMENTS.—(i) Section 1128A(b)(1) of such Act (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "hospital" each place it appears and inserting "hospital or a rural primary care hospital".

(ii) Section 1128B(c) of such Act (42 U.S.C. 1320a-7b(c)) is amended by inserting "rural primary care hospital," after "hospital,".

(iii) Section 1134 of such Act (42 U.S.C. 1320b-4) is amended by striking "hospitals" each place it appears and inserting "hospitals or rural primary care hospitals".

(iv) Section 1138(a)(1) of such Act (42 U.S.C. 1320b-8(a)(1)) is amended by striking "hospital" each place it appears in the matter preceding clause (i) of subparagraph (A) and inserting "hospital or rural primary care hospital".

(v) Section 1164(e) of such Act (42 U.S.C. 1320c-13(e)) is amended by inserting "rural primary care hospitals," after "hospitals,".

(vi) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by inserting "rural primary care hospital," after "hospital,".

(vii) Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(I) in subsection (h)(5)(A)(iii), by striking "hospital," each place it appears and inserting "hospital or rural primary care hospital,";

(II) in subsection (i)(1)(A), by inserting ", rural primary care hospital," after "1832(a)(2)(F)(i))";

(III) in subsection (i)(3)(A), by inserting "or rural primary care hospital services" after "facility services";

(IV) in subsection (l)(5)(A), by inserting "rural primary care hospital," after "hospital," each place it appears; and

(V) in subsection (l)(5)(C), by striking "hospital" each place it appears and inserting "hospital or rural primary care hospital".

(viii) Section 1835(c) of such Act (42 U.S.C. 1395n(c)) is amended by adding at the end the following: "A rural primary care hospital shall be considered a hospital for purposes of this subsection.".

(ix) Section 1842(b)(6)(A)(ii) of such Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by inserting "rural primary care hospital," after "hospital,".

(x) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(I) in subsection (e), by adding at the end the following:

"The term 'hospital' does not include, unless the context otherwise requires, a rural primary care hospital (as defined in section 1861(mm)(1)).",

(II) in subsection (w)(1), by inserting "rural primary care hospital," after "hospital,", and

(III) in subsection (w)(2), by striking "hospital" each place it appears and inserting "hospital or rural primary care hospital".

(xi) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "hospital" each place it appears and inserting "hospital or rural primary care hospital".

(xii) Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended—

(I) in subparagraph (F)(ii), by inserting "rural primary care hospitals," after "hospitals,";

(II) in subparagraph (H), by inserting after "this title" the first place it appears the following: "and in the case of rural primary care hospitals which provide rural primary care hospital services";

(III) in subparagraph (I), by inserting "and in the case of a rural primary care hospital" after "hospital"; and

(IV) in subparagraph (N), by striking "hospitals" and "hospital," and inserting "hospitals and rural primary care hospitals" and "hospital or rural primary care hospital,", respectively.

(xiii) Section 1866(a)(3) of such Act (42 U.S.C. 1395cc(a)(3)) is amended—

(I) by striking "hospital," each place it appears in subparagraphs (A) and (B) and inserting "hospital, rural primary care hospital,", and

(II) in subparagraph (C)(ii)(II), by striking "facilities" each place it appears and inserting "facilities, rural primary care hospitals,".

(xiv) Section 1867(e) of such Act (42 U.S.C. 1395dd(e)) is amended by adding at the end the following new paragraph:

"(6) The term 'hospital' includes a rural primary care hospital (as defined in section 1861(mm)(1)).".

(4) Avoiding duplicative payments to hospitals participating in rural health care transition grants.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(i) Avoiding Duplicative Payments to Hospitals Participating in Rural Demonstration Programs.—The Secretary shall reduce any payment amounts otherwise determined under this section to the extent necessary to avoid duplication of any payment made under section 4005(e) of the Omnibus Budget Reconciliation Act of 1987.".

(h) Geographic Classification of Hospitals.—

(1) Establishment of medicare geographical classification board.—Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

"(10)(A) There is hereby established the Medicare Geographical Classification Review Board (hereinafter in this paragraph referred to as the 'Board').

"(B)(i) The Board shall be composed of 5 members appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Two of such members shall be representatives of subsection (d) hospitals located in a rural area under paragraph (2)(D). At least 1 member shall be a member of the Prospective Payment Assessment

Commission, and at least 1 member shall be knowledgeable in the field of analyzing costs with respect to the provision of inpatient hospital services.

"(ii) The Secretary shall make all appointments to the Board as provided in this paragraph within 180 days after the date of the enactment of this paragraph.

"(C)(i) The Board shall consider the application of any subsection (d) hospital requesting that the Secretary change the hospital's geographic classification for purposes of determining for a fiscal year—

"(I) the hospital's average standardized amount under paragraph (2)(D), or

"(II) the area wage index applicable to such hospital under paragraph (3)(E).

"(ii) A hospital requesting a change in geographic classification under clause (i) for a fiscal year shall submit its application to the Board not later than the first day of the preceding fiscal year.

"(iii)(I) The Board shall render a decision on an application submitted under clause (i) not later than 180 days after the deadline referred to in clause (ii).

"(II) A decision of the Board shall be final unless the unsuccessful applicant appeals such decision to the Secretary by not later than 15 days after the Board renders its decision. The Secretary in considering the appeal of an applicant shall receive no new evidence but shall consider the record as a whole as such record appeared before the Board. The Secretary shall issue a decision on such an appeal not later than 90 days after the appeal is filed. The decision of the Secretary shall be final and shall not be subject to judicial review.

"(D)(i) The Secretary shall publish guidelines to be utilized by the Board in rendering decisions on applications submitted under this paragraph, and shall include in such guidelines the following:

"(I) Guidelines for comparing wages, taking into account occupational mix, in the area in which the hospital is classified and the area in which the hospital is applying to be classified.

"(II) Guidelines for determining whether the county in which the hospital is located should be treated as being a part of a particular Metropolitan Statistical Area.

"(III) Guidelines for considering information provided by an applicant with respect to the effects of the hospital's geographic classification on access to inpatient hospital services by medicare beneficiaries.

"(IV) Guidelines for considering the appropriateness of the criteria used to define New England County Metropolitan Areas.

"(ii) The Secretary shall publish the guidelines described in clause (i) by July 1, 1990.

"(E)(i) The Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this title or regulations of the Secretary, which are necessary or appropriate to carry out the provisions of this paragraph. In the course of any hearing the Board may administer oaths and affirmations. The provisions of subsections (d) and (e) of section 205 with respect to subpenas shall apply to the Board to the same extent as such provisions apply to the Secretary with respect to title II.

"(ii) The Board is authorized to engage such technical assistance and to receive such information as may be required to carry out its functions, and the Secretary shall, in addition, make available to the

Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions.

"(F)(i) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. Each member of the Board who is an officer or employee of the United States shall serve without compensation in addition to that received for service as an officer or employee of the United States.

"(ii) Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

(2) EFFECT OF DECISIONS OF BOARD ON PAYMENTS TO HOSPITALS.—Section 1886(d)(8) of such Act (42 U.S.C. 1395ww(d)(8)) is amended—

(A) in subparagraph (C)(i), by striking "subparagraph (B)" each place it appears and inserting "subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (10),", and

(B) in subparagraph (D), by striking "(B) and (C)" each place it appears and inserting "(B) and (C) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (10)".

Urban areas.
42 USC 1395ww.

(3) REVISION OF RULES FOR TREATMENT OF RECLASSIFIED HOSPITALS.—Section 1886(d)(8)(C) of such Act is amended to read as follows:

"(C)(i) If the application of subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (10), by treating hospitals located in a rural county or counties as being located in an urban area—

"(I) reduces the wage index for that urban area (as applied under this subsection) by 1 percentage point or less, the Secretary, in calculating such wage index under this subsection, shall exclude those hospitals so treated, or

"(II) reduces the wage index for that urban area by more than 1 percentage point (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection separately to hospitals located in such urban area (excluding all the hospitals so treated) and to the hospitals so treated (as if each affected rural county were a separate urban area).

"(ii) If the application of subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (10), by reclassifying a county from a rural to an urban area or by reclassifying an urban county from one urban area to another urban area—

"(I) reduces the wage index for the urban area within which the county or counties is reclassified by 1 percentage point or less (as applied under this subsection), the Secretary, in calculating such wage index under this subsection, shall exclude those counties so reclassified, or

"(II) reduces the wage index for the urban area within which the county or counties is reclassified by more than 1 percentage point (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection separately to hospitals located in such urban area (excluding all the hospitals so reclassified) and to hospitals located in the counties so reclassified (as if each affected county were a separate area).

"(iii) If the application of subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (10), by treating hospitals located in a rural county or counties as not being located in the rural area in a State, reduces the wage index for that rural area (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection as if the hospitals so treated had not been excluded from calculation of the wage index for that rural area.".

(4) FLOOR FOR AREA WAGE INDICES.—Section 1886(d)(8)(C) of such Act (as amended by paragraph (3)) is further amended by adding at the end the following new clause:

"(iv) The application of subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or the Secretary under paragraph (10) may not result in the reduction of any county's wage index to a level below the wage index for rural areas in the State in which the county is located.".

(5) ADDITIONAL PAYMENT RESULTING FROM CORRECTIONS OF ERRONEOUSLY DETERMINED WAGE INDEX.— 42 USC 1395ww note.

(A) IN GENERAL.—If the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") discovers an error with respect to the determination, adjustment, or computation of the area wage index described in section 1886(d)(3)(E) of the Social Security Act and subsequently corrects such error, the Secretary shall make an additional payment under title XVIII of such Act to a hospital affected by such error for inpatient hospital discharges occurring during the period when the erroneously determined, adjusted, or computed wage index was in effect.

(B) CONDITIONS FOR ADDITIONAL PAYMENT.—A hospital is eligible for an additional payment under subparagraph (A) only if—

(i) the error resulted from the submission of erroneous data, except that a hospital is not eligible for such additional payment if it submitted such erroneous data;

(ii) the error was made with respect to the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under section 1886(d)(3)(E) of the Social Security Act; and

(iii) the correction of the error resulted in an adjustment to the area wage index of not less than 3 percentage points.

(C) PERIOD OF APPLICABILITY.—A hospital may not receive an additional payment under subparagraph (A) for discharges occurring after October 1, 1990.

(6) UPDATES TO WAGE INDEX SURVEY.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(A) by striking "October 1, 1990 (and at least every 36 months thereafter)" and inserting "October 1, 1990, and

October 1, 1993 (and at least every 12 months thereafter)", and

(B) by adding at the end the following new sentence: "Any adjustments or updates made under this subparagraph for a fiscal year (beginning with fiscal year 1991) shall be made in a manner that assures that the aggregate payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustment.".

42 USC 1395ww note.

(7) EFFECTIVE DATE.—The amendments made by paragraphs (3) and (4) shall apply to discharges occurring on or after April 1, 1990.

Urban areas. 42 USC 1395ww note.

(i) LEGISLATIVE PROPOSAL ELIMINATING SEPARATE AVERAGE STANDARDIZED AMOUNTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall design a legislative proposal eliminating the system of determining separate average standardized amounts for subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) classified as being located in large urban, other urban, or rural areas under section 1886(d)(2)(D) of such Act, and shall include in such proposal the following:

(A) A transition period beginning in fiscal year 1992 during which a single rate for determining payment to hospitals in all areas shall be phased in with such single rate to be completely in effect by fiscal year 1995.

(B) Recommendations, where appropriate, for modifying or maintaining additional payments or adjustments made under title XVIII of the Social Security Act for teaching hospitals, rural referral centers, sole community hospitals, disproportionate share hospitals, and outlier cases, and for creating additional payments or adjustments where deemed appropriate by the Secretary.

(C) Recommendations with respect to recalculating standardized amounts to reflect information from more recent cost reporting periods.

(D) Recommendations, where appropriate, for modifying reimbursement for hospitals that are not subsection (d) hospitals under title XVIII of such Act.

(E) A recommendation for a methodology to reflect the severity of illness of different patients within the same diagnosis-related group (as determined in section 1886(d)(4)(B) of such Act).

(2) REPORT TO CONGRESS AND PROPAC.—(A) Not later than October 1, 1990, the Secretary shall submit the proposal described in paragraph (1) and an accompanying analysis of the impact of the proposed elimination of separate average standardized amounts on various categories of hospitals to Congress and the Prospective Payment Assessment Commission.

(B) Not later than February 1, 1991, the Prospective Payment Assessment Commission and the Director of the Congressional Budget Office shall each prepare and submit to Congress a report analyzing the legislative proposal submitted under subparagraph (A), and shall include in such report an analysis of the probable impact of such legislation on hospitals participating in the medicare program.

(j) PROPAC STUDY OF PAYMENTS TO RURAL SOLE COMMUNITY HOSPITALS AND SMALL RURAL HOSPITALS.—

(1) STUDY.—The Prospective Payment Assessment Commission (hereinafter referred to as the "Commission") shall conduct a study of the feasibility and desirability of—

(A) using a cost-based reimbursement system to determine the amount of payments to be made under the medicare program to small rural hospitals and rural sole community hospitals for the operating costs of inpatient hospital services;

(B) developing and applying alternative definitions of market share for use in determining the eligibility of hospitals for classification as sole community hospitals under section 1886(d)(5) of the Social Security Act; and

(C) developing and applying a method for accounting for decreases in the number of inpatients served in determining payment to small rural hospitals under section 1886(d) of the Social Security Act for the operating costs of inpatient hospital services.

(2) REPORT.—By not later than May 1, 1990, the Commission shall submit a report to Congress on the study conducted under paragraph (1).

SEC. 6004. PPS-EXEMPT HOSPITALS.

(a) EXEMPTION OF CANCER HOSPITALS FROM PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(A) in clause (iii), by striking "or";

(B) in clause (iv), by striking the semicolon at the end and inserting ", or"; and

(C) by inserting after clause (iv) the following new clause:

"(v) a hospital that the Secretary has classified, at any time on or before December 31, 1990, (or, in the case of a hospital that, as of the date of the enactment of this clause, is located in a State operating a demonstration project under section 1814(b), on or before December 31, 1991) for purposes of applying exceptions and adjustments to payment amounts under this subsection, as a hospital involved extensively in treatment for or research on cancer;".

(2) CONFORMING AMENDMENT.—Section 1886(d)(5)(I) of such Act (as redesignated by section 6003(e)(1)(A)) is amended by striking "(including" and all that follows through "cancer)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to cost reporting periods beginning on or after October 1, 1989, except that— 42 USC 1395ww note.

(A) in the case of a hospital classified by the Secretary of Health and Human Services as a hospital involved extensively in treatment for or research on cancer under section 1886(d)(5)(I) of the Social Security Act (as redesignated by section 6003(e)(1)(A)) after the date of the enactment of this Act, such amendments shall apply with respect to cost reporting periods beginning on or after the date of such classification,

(B) in the case of a hospital that is not described in subparagraph (A), such amendments shall apply with respect to portions of cost reporting periods or discharges occurring during and after fiscal year 1987 for purposes of section 1886(g) of the Social Security Act, and

(C) such amendments shall take effect 30 days after the date of the enactment of this Act for purposes of determining the eligibility of a hospital to receive periodic interim payments under section 1815(e)(2) of the Social Security Act.

(b) REBASING FOR CANCER HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3) of such Act (42 U.S.C. 1395ww(b)(3)), as amended by subsections (e)(1)(B) and (f)(2) of section 6003, is further amended—

(A) in subparagraph (A), by striking "(C) and (D)" and inserting "(C), (D), and (E)",

(B) in subparagraph (B)(ii), by striking "For purposes of subparagraph (A)" and inserting "For purposes of subparagraphs (A) and (E)", and

(C) by adding at the end the following new subparagraph:

"(E) In the case of a hospital described in clause (v) of subsection (d)(1)(B), the term 'target amount' means—

"(i) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital—

"(I) the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the 12-month cost reporting period (in this subparagraph referred to as the 'base cost reporting period') preceding the first cost reporting period for which this subsection was in effect with respect to such hospital, increased (in a compounded manner) by—

"(II) the sum of the applicable percentage increases applied to such hospital under this paragraph for cost reporting periods after the base cost reporting period and up to and including such first 12-month cost reporting period, or

"(ii) with respect to a later cost reporting period, the target amount for the preceding 12-month cost reporting period, increased by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

There shall be substituted for the base cost reporting period described in clause (i) a hospital's cost reporting period (if any) beginning during fiscal year 1987 if such substitution results in an increase in the target amount for the hospital.".

42 USC 1395ww note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to cost reporting periods beginning on or after April 1, 1989.

SEC. 6005. PAYMENTS FOR HOSPICE CARE.

(a) INCREASE IN CURRENT RATES.—Section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395f(i)(1)) is amended—

(1) in subparagraph (A), by inserting "and except as otherwise provided in this paragraph" after "1813(a)(4)", and

(2) by striking subparagraph (C) and inserting the following:

"(C)(i) With respect to routine home care and other services included in hospice care furnished during fiscal year 1990, the payment rates for such care and services shall be 120 percent of such rates in effect as of September 30, 1989.

"(ii) With respect to routine home care and other services included in hospice care furnished during a subsequent fiscal year, the payment rates for such care and services shall be the payment rates in effect under this subparagraph during the previous fiscal year increased by the market basket percentage increase (as defined in section 1886(b)(3)(B)(iii)) otherwise applicable to discharges occurring in the fiscal year.".

(b) REQUIREMENT OF CERTIFICATION OF TERMINAL ILLNESS FOR HOSPICE CARE MODIFIED.—Section 1814(a)(7)(A)(i) of the Social Security Act (42 U.S.C. 1395f(a)(7)(A)(i)) is amended by striking "certify," and all that follows through "initiated," and inserting the following: "certify in writing, not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated),".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to care and services furnished on or after January 1, 1990. 42 USC 1395f note.

Subpart B—Technical and Miscellaneous Provisions

SEC. 6011. PASS THROUGH PAYMENT FOR HEMOPHILIA INPATIENTS.

(a) PASS THROUGH PAYMENT FOR HEMOPHILIA INPATIENTS.—The second sentence of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)) is amended—

(1) by striking "or,"; and

(2) by striking "October 1, 1987)" and inserting "October 1, 1987), or costs with respect to administering blood clotting factors to individuals with hemophilia".

(b) DETERMINING PAYMENT AMOUNT.—The Secretary of Health and Human Services shall determine the amount of payment made to hospitals under part A of title XVIII of the Social Security Act for the costs of administering blood clotting factors to individuals with hemophilia by multiplying a predetermined price per unit of blood clotting factor (determined in consultation with the Prospective Payment Assessment Commission) by the number of units provided to the individual. 42 USC 1395ww note.

(c) RECOMMENDATIONS ON PAYMENTS.—The Prospective Payment Assessment Commission and the Health Care Financing Administration shall develop recommendations with respect to payments to hospitals under part A of title XVIII of the Social Security Act for the costs of administering blood clotting factors to individuals with hemophilia, and shall submit such recommendations to Congress not later than 18 months after the date of enactment of this Act. 42 USC 1395ww note.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to items furnished 6 months after the date of enactment of this Act and shall expire 2 years after the date of enactment of this Act. 42 USC 1395ww note.

SEC. 6012. MEDICARE BUY-IN FOR CONTINUED BENEFITS FOR DISABLED INDIVIDUALS.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) in the heading of section 1818, by inserting "ELDERLY" after "UNINSURED"; and 42 USC 1395i–2.

(2) by inserting after section 1818 the following new section:

"HOSPITAL INSURANCE BENEFITS FOR DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT

42 USC 1395i-2a.

"SEC. 1818A. (a) Every individual who—

"(1) has not attained the age of 65;

"(2)(A) has been entitled to benefits under this part under section 226(b), and

"(B)(i) continues to have the disabling physical or mental impairment on the basis of which the individual was found to be under a disability or to be a disabled qualified railroad retirement beneficiary, or (ii) is blind (within the meaning of section 216(i)(1)), but

"(C) whose entitlement under section 226(b) ends due solely to the individual having earnings that exceed the substantial gainful activity amount (as defined in section 223(d)(4)); and

"(3) is not otherwise entitled to benefits under this part, shall be eligible to enroll in the insurance program established by this part.

"(b)(1) An individual may enroll under this section only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(2) The individual's initial enrollment period shall begin with the month in which the individual receives notice that the individual's entitlement to benefits under section 226(b) will end due solely to the individual having earnings that exceed the substantial gainful activity amount (as defined in section 223(d)(4)) and shall end 7 months later.

"(3) There shall be a general enrollment period during the period beginning on January 1 and ending on March 31 of each year (beginning with 1990).

"(c)(1) The period (in this subsection referred to as a 'coverage period') during which an individual is entitled to benefits under the insurance program under this part shall begin on whichever of the following is the latest:

"(A) In the case of an individual who enrolls under subsection (b)(2) before the month in which the individual first satisfies subsection (a), the first day of such month.

"(B) In the case of an individual who enrolls under subsection (b)(2) in the month in which the individual first satisfies subsection (a), the first day of the month following the month in which the individual so enrolls.

"(C) In the case of an individual who enrolls under subsection (b)(2) in the month following the month in which the individual first satisfies subsection (a), the first day of the second month following the month in which the individual so enrolls.

"(D) In the case of an individual who enrolls under subsection (b)(2) more than one month following the month in which the individual first satisfies subsection (a), the first day of the third month following the month in which the individual so enrolls.

"(E) In the case of an individual who enrolls under subsection (b)(3), the July 1 following the month in which the individual so enrolls.

"(2) An individual's coverage period under this section shall continue until the individual's enrollment is terminated as follows:

"(A) As of the month following the month in which the Secretary provides notice to the individual that the individual no longer meets the condition described in subsection (a)(2)(B).

"(B) As of the month following the month in which the individual files notice that the individual no longer wishes to participate in the insurance program established by this part.

"(C) As of the month before the first month in which the individual becomes eligible for hospital insurance benefits under section 226(a) or 226A.

"(D) As of a date, determined under regulations of the Secretary, for nonpayment of premiums.

The regulations under subparagraph (D) may provide a grace period of not longer than 90 days, which may be extended to not to exceed 180 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 90-day period. Termination of coverage under this section shall result in simultaneous termination of any coverage affected under any other part of this title.

"(3) The provisions of subsections (h) and (i) of section 1837 apply to enrollment and nonenrollment under this section in the same manner as they apply to enrollment and nonenrollment and special enrollment periods under section 1818.

"(d)(1)(A) Premiums shall be paid to the Secretary at such times, and in such manner, as the Secretary shall by regulations prescribe, and shall be deposited in the Treasury to the credit of the Federal Hospital Insurance Trust Fund.

"(B)(i) Subject to clause (ii), such premiums shall be payable for the period commencing with the first month of an individual's coverage period and ending with the month in which the individual dies or, if earlier, in which the individual's coverage period terminates.

"(ii) Such premiums shall not be payable for any month in which the individual is eligible for benefits under this part pursuant to section 226(b).

"(C) For purposes of applying section 1839(g) of this title and section 59B(f)(1)(B)(i) of the Internal Revenue Code of 1986, any reference to section 1818 shall be deemed to include a reference to this section.

"(2) The provisions of subsections (d) through (f) of section 1818 (relating to premiums) shall apply to individuals enrolled under this section in the same manner as they apply to individuals enrolled under that section.".

42 USC 1395i-2a note.

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act, but shall not apply so as to provide for coverage under part A of title XVIII of the Social Security Act for any month before July 1990.

SEC. 6013. BUY-IN UNDER PART A FOR QUALIFIED MEDICARE BENEFICIARIES.

(a) In General.—Section 1818 of the Social Security Act (42 U.S.C. 1395i-2) is amended by adding at the end the following:

Contracts.

"(g)(1) The Secretary shall, at the request of a State made after 1989, enter into a modification of an agreement entered into with the State pursuant to section 1843(a) under which the agreement provides for enrollment in the program established by this part of qualified medicare beneficiaries (as defined in section 1905(p)(1)).

"(2)(A) Except as provided in subparagraph (B), the provisions of subsections (c), (d), (e), and (f) of section 1843 shall apply to qualified medicare beneficiaries enrolled, pursuant to such agreement, in the program established by this part in the same manner and to the same extent as they apply to qualified medicare beneficiaries enrolled, pursuant to such agreement, in part B.

"(B) For purposes of this subsection, section 1843(d)(1) shall be applied by substituting 'section 1818' for 'section 1839' and 'subsection (c) (with reference to subsection (b) of section 1839)' for 'subsection (b).'.".

(b) CONFORMING AMENDMENT.—Section 1843 of such Act (42 U.S.C. 1395v) is amended by adding at the end the following:

"(i) For provisions relating to enrollment of qualified medicare beneficiaries under part A, see section 1818(g).".

42 USC 1395i-2 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective January 1, 1990.

SEC. 6014. PROPAC STUDY ON MEDICARE-DEPENDENT HOSPITALS.

(a) STUDY.—The Prospective Payment Assessment Commission shall conduct a study of the appropriateness of making an adjustment to the methodology for determining the amount of payment to hospitals for which individuals entitled to benefits under part A of title XVIII of the Social Security Act represent a high proportion of discharges.

(b) REPORT.—Not later than June 1, 1990, the Commission shall include a report on the study conducted under subsection (a) in its annual report submitted to Congress.

SEC. 6015. PROVISIONS RELATING TO TARGET AMOUNT ADJUSTMENTS.

(a) INCLUDING NEW BASE PERIOD IN TARGET ADJUSTMENTS.—Section 1886(b)(4)(A) of the Social Security Act (42 U.S.C. 1395ww(b)(4)(A)) is amended by striking "deems appropriate," and inserting "deems appropriate, including the assignment of a new base period which is more representative, as determined by the Secretary, of the reasonable and necessary cost of inpatient services and".

42 USC 1395ww note.

(b) PUBLICATION OF INSTRUCTIONS RELATING TO EXCEPTIONS AND ADJUSTMENTS IN TARGET AMOUNTS.—By not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall publish instructions specifying the application process to be used in providing exceptions and adjustments under section 1886(b)(4)(A) of the Social Security Act.

42 USC 1395ww note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to cost reporting periods beginning on or after April 1, 1990.

42 USC 1395f note.

SEC. 6016. STUDY OF METHODS TO COMPENSATE HOSPICES FOR HIGH-COST CARE.

(a) STUDY.—The Secretary of Health and Human Services shall—

(1) conduct a study of high-cost hospice care provided to medicare beneficiaries under the medicare program, and evaluate the ability of hospice programs participating in the medicare program to provide such high-cost care to such patients; and

(2) based on such study, develop methods to compensate such programs for providing such high-cost care.

(b) REPORT TO CONGRESS.—Not later than April 1, 1991, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a) and shall include in the report any recommendations developed by the Secretary to compensate hospice programs for providing high-cost hospice care to medicare beneficiaries.

SEC. 6017. PROHIBITION ON NURSING HOME BALANCE BILLING.

Section 1866(a)(2)(B) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(B)) is amended—

(1) in clause (i), by striking "(i)"; and

(2) by striking clause (ii).

SEC. 6018. HOSPITAL ANTI-DUMPING PROVISIONS.

(a) HOSPITAL OBLIGATIONS WITH RESPECT TO TREATMENT OF EMERGENCY MEDICAL CONDITIONS AND INDIGENT CARE.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by amending subparagraph (I) to read as follows:

"(I) in the case of a hospital or rural primary care hospital—

"(i) to adopt and enforce a policy to ensure compliance with the requirements of section 1867,

"(ii) to maintain medical and other records related to individuals transferred to or from the hospital for a period of five years from the date of the transfer, and

"(iii) to maintain a list of physicians who are on call for duty after the initial examination to provide treatment necessary to stabilize an individual with an emergency medical condition;"; and

(2) in subparagraph (N)—

(A) by striking "and" at the end of clause (i),

(B) by striking "and" at the end of clause (ii), and

(C) by adding at the end the following new clauses:

"(iii) to post conspicuously in any emergency department a sign (in a form specified by the Secretary) specifying rights of individuals under section 1867 with respect to examination and treatment for emergency medical conditions and women in labor, and

"(iv) to post conspicuously (in a form specified by the Secretary) information indicating whether or not the hospital participates in the medicaid program under a State plan approved under title XIX, and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act, without regard to whether regulations to carry out such amendments have been promulgated by such date. 42 USC 1395cc note.

SEC. 6019. RELEASE AND USE OF HOSPITAL ACCREDITATION SURVEYS.

(a) REQUIRING ALL INSTITUTIONS AND JCAHO TO RELEASE SURVEYS TO SECRETARY.—Section 1865(a)(2) of the Social Security Act (42 U.S.C. 1395bb(a)(2)) is amended—

(1) by striking "(2) such institution" and inserting "(2)(A) such institution";

(2) by striking "(if it is included within a survey described in section 1864(c))";

(3) by striking the comma at the end and inserting the following: ", together with any other information directly related to the survey as the Secretary may require (including corrective action plans),"; and

(4) by adding at the end the following new subparagraph:

"(B) such Commission releases such a copy and any such information to the Secretary,".

42 USC 1395bb.

(b) AUTHORIZING SECRETARY TO RELEASE CERTAIN INFORMATION.—Section 1865(a) of such Act is further amended by striking the period at the end of the last sentence and inserting the following: ", except that the Secretary may disclose such a survey and information related to such a survey to the extent such survey and information relate to an enforcement action taken by the Secretary.".

(c) PERMITTING SECRETARY TO WITHDRAW HOSPITAL'S STATUS BASED UPON INFORMATION OTHER THAN SURVEYS.—Section 1865(b) of such Act is amended by striking "following a survey made pursuant to section 1864(c)".

42 USC 1395bb note.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsection (a) shall take effect 6 months after the date of the enactment of this Act.

SEC. 6020. INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS.

Contracts.

Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended by adding at the end the following new subsection:

"(i)(1) If the Secretary determines that a psychiatric hospital which has an agreement in effect under this section no longer meets the requirements for a psychiatric hospital under this title and further finds that the hospital's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the Secretary shall terminate such agreement; or

"(B) do not immediately jeopardize the health and safety of its patients, the Secretary may terminate such agreement, or provide that no payment will be made under this title with respect to any individual admitted to such hospital after the effective date of the finding, or both.

"(2) If a psychiatric hospital, found to have deficiencies described in paragraph (1)(B), has not complied with the requirements of this title—

"(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the Secretary shall provide that no payment will be made under this title with respect to any individual admitted to such hospital after the end of such 3-month period, or

"(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no payment may be made under this title with respect to any individual in the hospital until the Secretary finds that the hospital is in compliance with the requirements of this title.".

SEC. 6021. ELIGIBILITY OF MERGED OR CONSOLIDATED HOSPITALS FOR PERIODIC INTERIM PAYMENTS.

(a) IN GENERAL.—Section 1815(e) of the Social Security Act (42 U.S.C. 1395g(e)) is amended by adding at the end the following new paragraph:

"(4) A hospital created by the merger or consolidation of 2 or more hospitals or hospital campuses shall be eligible to receive periodic interim payment on the basis described in paragraph (1)(B) if—

"(A) at least one of the hospitals or campuses received periodic interim payment on such basis prior to the merger or consolidation; and

"(B) the merging or consolidating hospitals or campuses would each meet the requirement of paragraph (1)(B)(i) if such hospitals or campuses were treated as independent hospitals for purposes of this title.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments made for discharges occurring on or after the expiration of the 30-day period that begins on the date of the enactment of this Act, regardless of the date of the merger or consolidation involved. 42 USC 1395g note.

SEC. 6022. EXTENSION OF WAIVER FOR FINGER LAKES AREA HOSPITAL CORPORATION.

Section 1886(c)(4) of the Social Security Act (42 U.S.C. 1395ww(c)(4)) is amended in the second sentence by striking "the aggregate payment or payments" and all that follows and inserting "the aggregate rate of increase from October 1, 1984, to the most recent date for which annual data are available.".

SEC. 6023. CLARIFICATION OF CONTINUATION OF AUGUST 1987 HOSPITAL BAD DEBT RECOGNITION POLICY.

(a) IN GENERAL.—Section 4008(c) of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following: "The Secretary may not require a hospital to change its bad debt collection policy if a fiscal intermediary, in accordance with the rules in effect as of August 1, 1987, with respect to criteria for indigency determination procedures, record keeping, and determining whether to refer a claim to an external collection agency, has accepted such policy before that date, and the Secretary may not collect from the hospital on the basis of an expectation of a change in the hospital's collection policy.". 42 USC 1395f note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987. 42 USC 1395f note.

SEC. 6024. USE OF MORE RECENT DATA REGARDING ROUTINE SERVICE COSTS OF SKILLED NURSING FACILITIES.

42 USC 1395yy note.

The Secretary of Health and Human Services shall determine mean per diem routine service costs for freestanding and hospital based skilled nursing facilities under section 1888(a) of the Social Security Act for cost reporting periods beginning on or after October 1, 1989, in accordance with regulations published by the Secretary that require the use of cost reports submitted by skilled nursing facilities for cost reporting periods beginning not earlier than October 1, 1985.

SEC. 6025. PERMITTING DENTIST TO SERVE AS HOSPITAL MEDICAL DIRECTOR.

42 USC 1395x note.

Notwithstanding the requirement that the responsibility for organization and conduct of the medical staff of an institution be assigned only to a doctor of medicine or osteopathy in order for the institution to participate as a hospital under the medicare program, an institution that has a doctor of dental surgery or of dental medicine serving as its medical director shall be considered to meet such requirement if the laws of the State in which the institution is located permit a doctor of dental surgery or of dental medicine to serve as the medical staff director of a hospital.

SEC. 6026. GAO STUDY OF HOSPITAL-BASED AND FREESTANDING SKILLED NURSING FACILITIES.

(a) Study.—The Comptroller General shall conduct a study to assess the differences in costs and case-mix between hospital-based and freestanding skilled nursing facilities participating in the medicare program.

(b) Report.—By not later than June 1, 1990, the Comptroller General shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1) and shall include in the report any recommendations, including recommendations regarding the payment differential between hospital-based and freestanding skilled nursing facilities, the Comptroller General considers appropriate.

SEC. 6027. MASSACHUSETTS MEDICARE REPAYMENT.

The Secretary of Health and Human Services may not, on or after the date of the enactment of this Act and before May 1, 1990, recoup from, or otherwise reduce payments to, hospitals in the State of Massachusetts because of alleged overpayments to such hospitals under part A of title XVIII of the Social Security Act which occurred during the period of the statewide hospital reimbursement demonstration project conducted in that State between October 1, 1982, and June 30, 1986, under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972. Interest shall not accrue on any such alleged overpayments during the period beginning on the date of the enactment of this Act and ending on May 1, 1990.

SEC. 6028. ALLOWING CERTIFICATIONS AND RECERTIFICATIONS BY NURSE PRACTITIONERS AND CLINICAL NURSE SPECIALISTS FOR CERTAIN SERVICES.

Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting "(2) a physician, or, in the case of services described in subparagraph (B), a physician, or a nurse practitioner or clinical nurse specialist who does not have a direct or indirect employment relationship with the facility but is working in collaboration with a physician,"; and

(2) in the matter following the final paragraph by striking "a physician makes" and inserting "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

PART 2—PROVISIONS RELATING TO PART B

Subpart A—General Provisions

2 USC 902 note.

SEC. 6101. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act, other than section 6201), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on October 16, 1989, pursuant to section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such

Act) through March 31, 1990, with respect to payments for items and services under part B of such title.

SEC. 6102. PHYSICIAN PAYMENT REFORM.

(a) IN GENERAL.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PAYMENT FOR PHYSICIANS' SERVICES

"SEC. 1848. (a) PAYMENT BASED ON FEE SCHEDULE.— 42 USC 1395w-4.

"(1) IN GENERAL.—Effective for all physicians' services (as defined in subsection (j)(3)) furnished under this part during a year (beginning with 1992) for which payment is otherwise made on the basis of a reasonable charge or on the basis of a fee schedule under section 1834(b) or 1834(f), payment under this part shall instead be based on the lesser of—

"(A) the actual charge for the service, or

"(B) subject to the succeeding provisions of this subsection, the amount determined under the fee schedule established under subsection (b) for services furnished during that year (in this subsection referred to as the 'fee schedule amount').

"(2) TRANSITION TO FULL FEE SCHEDULE.—

"(A) LIMITING REDUCTIONS AND INCREASES TO 15 PERCENT IN 1992.—

"(i) LIMIT ON INCREASE.—In the case of a service in a fee schedule area (as defined in subsection (j)(2)) for which the adjusted historical payment basis (as defined in subparagraph (D)) is less than 85 percent of the fee schedule amount for services furnished in 1992, there shall be substituted for the fee schedule amount an amount equal to the adjusted historical payment basis plus 15 percent of the fee schedule amount otherwise established (without regard to this paragraph).

"(ii) LIMIT IN REDUCTION.—In the case of a service in a fee schedule area for which the adjusted historical payment basis exceeds 115 percent of the fee schedule amount for services furnished in 1992, there shall be substituted for the fee schedule amount an amount equal to the adjusted historical payment basis minus 15 percent of the fee schedule amount otherwise established (without regard to this paragraph).

"(B) SPECIAL RULE FOR 1993, 1994, AND 1995.—If a physicians' service in a fee schedule area is subject to the provisions of subparagraph (A) in 1992, for physicians' services furnished in the area—

"(i) during 1993, there shall be substituted for the fee schedule amount an amount equal to the sum of—

"(I) 75 percent of the fee schedule amount determined under subparagraph (A), adjusted by the update established under subsection (d)(3) for 1993, and

"(II) 25 percent of the fee schedule amount determined under paragraph (1) for 1993 without regard to this paragraph;

"(ii) during 1994, there shall be substituted for the fee schedule amount an amount equal to the sum of—

"(I) 67 percent of the fee schedule amount determined under clause (i), adjusted by the update established under subsection (d)(3) for 1994, and

"(II) 33 percent of the fee schedule amount determined under paragraph (1) for 1994 without regard to this paragraph; and

"(iii) during 1995, there shall be substituted for the fee schedule amount an amount equal to the sum of—

"(I) 50 percent of the fee schedule amount determined under clause (ii) adjusted by the update established under subsection (d)(3) for 1995, and

"(II) 50 percent of the fee schedule amount determined under paragraph (1) for 1995 without regard to this paragraph.

"(C) SPECIAL RULE FOR ANESTHESIA SERVICES.—With respect to physicians' services which are anesthesia services, the Secretary shall provide for a transition in the same manner as a transition is provided for other services under subparagraph (B).

"(D) ADJUSTED HISTORICAL PAYMENT BASIS DEFINED.—

"(i) IN GENERAL.—In this paragraph, the term 'adjusted historical payment basis' means, with respect to a physicians' service furnished in a fee schedule area, the weighted average prevailing charge applied in the area for the service in 1991 (as determined by the Secretary without regard to physician specialty and as adjusted to reflect payments for services with customary charges below the prevailing charge or other payment limitations imposed by law or regulation) adjusted by the update established under subsection (d)(3) for 1992.

"(ii) APPLICATION TO RADIOLOGY SERVICES.—In applying clause (i) in the case of physicians' services which are radiology services (including radiologist services, as defined in section 1834(b)(6)), there shall be substituted for the weighted average prevailing charge the amount provided under the fee schedule established for the service for the fee schedule area under section 1834(b).

"(3) INCENTIVES FOR PARTICIPATING PHYSICIANS.—In applying paragraph (1)(B) in the case of a nonparticipating physician, the fee schedule amount shall be 95 percent of such amount otherwise applied under this subsection (without regard to this paragraph).

Regulations.

"(b) ESTABLISHMENT OF FEE SCHEDULES.—

"(1) IN GENERAL.—Before January 1 of each year beginning with 1992, the Secretary shall establish, by regulation, fee schedules that establish payment amounts for all physicians' services furnished in all fee schedule areas (as defined in subsection (j)(2)) for the year. Except as provided in paragraph (2), each such payment amount for a service shall be equal to the product of—

"(A) the relative value for the service (as determined in subsection (c)(2)),

"(B) the conversion factor (established under subsection (d)) for the year, and

"(C) the geographic adjustment factor (established under subsection (e)(2)) for the service for the fee schedule area.

"(2) TREATMENT OF RADIOLOGY SERVICES AND ANESTHESIA SERVICES.—

"(A) RADIOLOGY SERVICES.—With respect to radiology services (including radiologist services, as defined in section 1834(b)(6)), the Secretary shall base the relative values on the relative value scale developed under section 1834(b)(1)(A), with appropriate modifications of the relative values to assure that the relative values established for radiology services which are similar or related to other physicians' services are consistent with the relative values established for those similar or related services.

"(B) ANESTHESIA SERVICES.—In establishing the fee schedule for anesthesia services for which a relative value guide has been established under section 4048(b) of the Omnibus Budget Reconciliation Act of 1987, the Secretary shall use, to the extent practicable, such relative value guide, with appropriate adjustment of the conversion factor, in a manner to assure that the fee schedule amounts for anesthesia services are consistent with the fee schedule amounts for other services determined by the Secretary to be of comparable value. In applying the previous sentence, the Secretary shall adjust the conversion factor by geographic adjustment factors in the same manner as such adjustment is made under paragraph (1)(C).

"(C) CONSULTATION.—The Secretary shall consult with the Physician Payment Review Commission and organizations representing physicians or suppliers who furnish radiology services and anesthesia services in applying subparagraphs (A) and (B).

"(c) DETERMINATION OF RELATIVE VALUES FOR PHYSICIANS' SERVICES.—

"(1) DIVISION OF PHYSICIANS' SERVICES INTO COMPONENTS.—In this section, with respect to a physicians' service:

"(A) WORK COMPONENT DEFINED.—The term 'work component' means the portion of the resources used in furnishing the service that reflects physician time and intensity in furnishing the service. Such portion shall—

"(i) include activities before and after direct patient contact, and

"(ii) be defined, with respect to surgical procedures, to reflect a global definition including pre-operative and post-operative physicians' services.

"(B) PRACTICE EXPENSE COMPONENT DEFINED.—The term 'practice expense component' means the portion of the resources used in furnishing the service that reflects the general categories of expenses (such as office rent and wages of personnel, but excluding malpractice expenses) comprising practice expenses. In this subparagraph, the term 'practice expenses' includes all expenses for furnishing physicians' services, excluding malpractice expenses, physician compensation, and other physician fringe benefits.

"(C) MALPRACTICE COMPONENT DEFINED.—The term 'malpractice component' means the portion of the resources used in furnishing the service that reflects malpractice expenses in furnishing the service.

"(2) DETERMINATION OF RELATIVE VALUES.—

"(A) In general.—

"(i) Combination of units for components.—The Secretary shall develop a methodology for combining the work, practice expense, and malpractice relative value units, determined under subparagraph (C), for each service in a manner to produce a single relative value for that service.

"(ii) Extrapolation.—The Secretary may use extrapolation and other techniques to determine the number of relative value units for physicians' services for which specific data are not available and shall take into account recommendations of the Physician Payment Review Commission and the results of consultations with organizations representing physicians who provide such services.

"(B) Periodic review and adjustments in relative values.—

"(i) Periodic review.—The Secretary, not less often than every 5 years, shall review the relative values established under this paragraph for all physicians' services.

"(ii) Adjustments.—

"(I) In general.—The Secretary shall, to the extent the Secretary determines to be necessary and subject to subclause (II), adjust the number of such units to take into account changes in medical practice, coding changes, new data on relative value components, or the addition of new procedures. The Secretary shall publish an explanation of the basis for such adjustments.

"(II) Limitation on annual adjustments.—The adjustments under subclause (I) for a year may not cause the amount of expenditures under this part for the year to differ by more than $20,000,000 from the amount of expenditures under this part that would have been made if such adjustments had not been made.

"(iii) Consultation.—The Secretary, in making adjustments under clause (ii), shall consult with the Physician Payment Review Commission and organizations representing physicians.

"(C) Computation of relative value units for components.—For purposes of this section for each physicians' service—

"(i) Work relative value units.—The Secretary shall determine a number of work relative value units for the service based on the relative resources incorporating physician time and intensity required in furnishing the service.

"(ii) Practice expense relative value units.—The Secretary shall determine a number of practice expense relative value units equal to the product of—

"(I) the base allowed charges (as defined in subparagraph (D)) for the service, and

"(II) the practice expense percentage for the service (as determined under paragraph (3)(C)(ii)).

"(iii) MALPRACTICE RELATIVE VALUE UNITS.—The Secretary shall determine a number of malpractice relative value units equal to the product of—

"(I) the base allowed charges (as defined in subparagraph (D)) for the service, and

"(II) the malpractice percentage for the service (as determined under paragraph (3)(C)(iii)).

"(D) BASE ALLOWED CHARGES DEFINED.—In this paragraph, the term 'base allowed charges' means, with respect to a physician's service, the national average allowed charges for the service under this part for services furnished during 1991, as estimated by the Secretary using the most recent data available.

"(3) COMPONENT PERCENTAGES.—For purposes of paragraph (2), the Secretary shall determine a work percentage, a practice expense percentage, and a malpractice percentage for each physician's service as follows:

"(A) DIVISION OF SERVICES BY SPECIALTY.—For each physician's service or class of physicians' services, the Secretary shall determine the average percentage of each such service or class of services that is performed, nationwide, under this part by physicians in each of the different physician specialties (as identified by the Secretary).

"(B) DIVISION OF SPECIALTY BY COMPONENT.—The Secretary shall determine the average percentage division of resources, among the work component, the practice expense component, and the malpractice component, used by physicians in each of such specialties in furnishing physicians' services. Such percentages shall be based on national data that describe the elements of physician practice costs and revenues, by physician specialty. The Secretary may use extrapolation and other techniques to determine practice costs and revenues for specialties for which adequate data are not available.

"(C) DETERMINATION OF COMPONENT PERCENTAGES.—

"(i) WORK PERCENTAGE.—The work percentage for a service (or class of services) is equal to the sum (for all physician specialties) of—

"(I) the average percentage division for the work component for each physician specialty (determined under subparagraph (B)), multiplied by

"(II) the proportion (determined under subparagraph (A)) of such service (or services) performed by physicians in that specialty.

"(ii) PRACTICE EXPENSE PERCENTAGE.—The practice expense percentage for a service (or class of services) is equal to the sum (for all physician specialties) of—

"(I) the average percentage division for the practice expense component for each physician specialty (determined under subparagraph (B)), multiplied by

"(II) by the proportion (determined under subparagraph (A)) of such service (or services) performed by physicians in that specialty.

"(iii) MALPRACTICE PERCENTAGE.—The malpractice percentage for a service (or class of services) is equal to the sum (for all physician specialties) of—

"(I) the average percentage division for the malpractice component for each physician specialty (determined under subparagraph (B)), multiplied by

"(II) by the proportion (determined under subparagraph (A)) of such service (or services) performed by physicians in that specialty.

"(D) PERIODIC RECOMPUTATION.—The Secretary may, from time to time, provide for the recomputation of work percentages, practice expense percentages, and malpractice percentages determined under this paragraph.

"(3) ANCILLARY POLICIES.—The Secretary may establish ancillary policies (with respect to the use of modifiers, local codes, and other matters) as may be necessary to implement this subsection.

"(4) CODING.—The Secretary shall establish a uniform procedure coding system for the coding of all physicians' services. The Secretary shall provide for an appropriate coding structure for visits and consultations. The Secretary may incorporate the use of time in the coding for visits and consultations only for services furnished on or after January 1, 1993. The Secretary, in establishing such coding system, shall consult with the Physician Payment Review Commission and other organizations representing physicians.

"(5) NO VARIATION FOR SPECIALISTS.—The Secretary may not vary the conversion factor or the number of relative value units for a physicians' service based on whether the physician furnishing the service is a specialist or based on the type of specialty of the physician.

"(d) CONVERSION FACTORS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The conversion factor for each year shall be the conversion factor established under this subsection for the previous year (or, in the case of 1992, specified in subparagraph (B)) adjusted by the update (established under subparagraph (C)) for the year involved.

"(B) SPECIAL PROVISION FOR 1992.—For purposes of subparagraph (A), the conversion factor specified in this subparagraph is a conversion factor (determined by the Secretary) which, if this section were to apply during 1991 using such conversion factor, would result in the same aggregate amount of payments under this part for physicians' services as the estimated aggregate amount of the payments under this part for such services in 1991.

Federal Register, publication.

"(C) PUBLICATION.—The Secretary shall cause to have published in the Federal Register, during the last 15 days of October of—

"(i) 1991, the conversion factor (or factors) which will apply to physicians' services for 1992, and the update (or updates) determined under paragraph (3) for 1992; and

"(ii) each succeeding year, the update (or updates) determined under paragraph (3) for the following year.

"(2) RECOMMENDATION OF UPDATE.—

Reports.

"(A) IN GENERAL.—Not later than April 15 of each year (beginning with 1991), the Secretary shall transmit to the Congress a report that includes a recommendation on the appropriate update (or updates) in the conversion factor (or factors) for all physicians' services in the following year. The Secretary may recommend a uniform update or different updates for different categories or groups of services. In making the recommendation, the Secretary shall consider—

"(i) the percentage change in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for that year;

"(ii) the percentage by which actual expenditures for all physicians' services (as defined in subsection (f)(5)(A)) under this part for the fiscal year ending in the year preceding the year in which such recommendation is made were greater or less than actual expenditures for all such physicians' services in the fiscal year ending in the second preceding year;

"(iii) the relationship between the percentage determined under clause (ii) for a fiscal year and the performance standard rate of increase (established under subsection (f)(2)) for that fiscal year;

"(iv) changes in volume or intensity of services;

"(v) access to services; and

"(vi) other factors that may contribute to changes in volume or intensity of services or access to services.

For purposes of making the comparison under clause (iii), the Secretary shall adjust the performance standard rate of increase for a fiscal year to reflect changes in the actual proportion of HMO enrollees (as defined in subsection (f)(5)(B)) in that fiscal year compared with such proportion for the previous fiscal year.

"(B) ADDITIONAL CONSIDERATIONS.—In making recommendations under subparagraph (A), the Secretary may also consider—

"(i) unexpected changes by physicians in response to the implementation of the fee schedule;

"(ii) unexpected changes in outlay projections;

"(iii) changes in the quality or appropriateness of care; and

"(iv) any other relevant factors not measured in the resource-based payment methodology.

"(C) SPECIAL RULE FOR 1992 UPDATE.—In considering the update for 1992, the Secretary shall make a separate determination of the percentage and relationship described in clauses (ii) and (iii) of subparagraph (A) with respect to the category of surgical services (as defined by the Secretary pursuant to subsection (j)(1)).

"(D) EXPLANATION OF UPDATE.—The Secretary shall include in each report under subparagraph (A)—

"(i) the update recommended for each category of physicians' services (established by the Secretary under subsection (j)(1)) and for each of the following groups of physicians' services: nonsurgical services, visits, consultations, and emergency room services;

"(ii) the rationale for the recommended update (or updates) for each category and group of services described in clause (i); and "(iii) the data and analyses underlying the update (or updates) recommended.

"(E) Computation of budget-neutral adjustment.—

"(i) In general.—The Secretary shall include in the report made under subparagraph (A) in a year a statement of the percentage by which (I) the actual expenditures for physicians' services under this part (during the fiscal year ending in the preceding year, as set forth in most recent annual report made pursuant to section 1841(b)(2)), exceeded, or was less than (II) the expenditures projected for the fiscal year under clause (ii).

"(ii) Projected expenditures.—For purposes of clause (i), the expenditures projected under this clause for a fiscal year is the actual expenditures for physicians' services made under this part in the second preceding fiscal year—

"(I) increased by the weighted average percentage increase permitted under this part for physicians' services in the preceding fiscal year;

"(II) adjusted to reflect the percentage change in the average number of individuals enrolled under this part (who are not enrolled with a risk-sharing contract under section 1876) for the preceding fiscal year compared with the second preceding fiscal year;

"(III) adjusted to reflect the average annual percentage growth in the volume and intensity of physicians' services under this part for the five-fiscal-year period ending with the second preceding fiscal year; and

"(IV) adjusted to reflect the percentage change in expenditures for physicians' services under this part in the preceding fiscal year (compared with the second preceding fiscal year) which result from changes in law or regulations.

Reports.

"(F) Commission review.—The Physician Payment Review Commission shall review the report submitted under subparagraph (A) in a year and shall submit to the Congress, by not later than May 15 of the year, a report including its recommendations respecting the update (or updates) in the conversion factor (or factors) for the following year.

"(3) Update.—

"(A) Based on index.—

"(i) In general.—Unless Congress otherwise provides, subject to subparagraph (B), for purposes of this section the update for a year is equal to the Secretary's estimate of the percentage increase in the appropriate update index (as defined in clause (ii)) for the year.

"(ii) Appropriate update index defined.—In clause (i), the term 'appropriate update index' means—

"(I) for services for which prevailing charges in 1989 were subject to a limit under the fourth sentence of section 1842(b)(3), the medicare economic index (referred to in that sentence), and

"(II) for other services, such index (such as the consumer price index) that was applicable under this part in 1989 to increases in the payment amounts recognized under this part with respect to such services.

"(B) ADJUSTMENT IN UPDATE.—

"(i) IN GENERAL.—The update for a year provided under subparagraph (A) shall, subject to clause (ii), be increased or decreased by the same percentage by which (I) the percentage increase in the actual expenditures for physicians' services (as defined in section (f)(5)(A)) in the second previous fiscal year over the third previous fiscal year, was less or greater, respectively, than (II) the performance standard rate of increase (established under subsection (f)) for such category of services for the second previous fiscal year.

"(ii) RESTRICTIONS ON ADJUSTMENT.—The adjustment made under clause (i) for a year may not result in a decrease of—

"(I) more than 2 percentage points for the update for 1992 or 1993,

"(II) 2½ percentage points for the update for 1994 or 1995, and

"(III) 3 percentage points for the update for any succeeding year.

"(e) GEOGRAPHIC ADJUSTMENT FACTORS.—

"(1) ESTABLISHMENT OF GEOGRAPHIC INDICES.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish—

"(i) an index which reflects the relative costs of the mix of goods and services comprising practice expenses (other than malpractice expenses) in the different fee schedule areas compared to the national average of such costs,

"(ii) an index which reflects the relative costs of malpractice expenses in the different fee schedule areas compared to the national average of such costs, and

"(iii) an index which reflects ¼ of the difference between the relative value of physicians' work effort in each of the different fee schedule areas and the national average of such work effort.

"(B) CLASS-SPECIFIC GEOGRAPHIC COST-OF-PRACTICE INDICES.—The Secretary may establish more than one index under subparagraph (A)(i) in the case of classes of physicians' services, if, because of differences in the mix of goods and services comprising practice expenses for the different classes of services, the application of a single index under such clause to different classes of such services would be substantially inequitable.

"(2) COMPUTATION OF GEOGRAPHIC ADJUSTMENT FACTOR.—For purposes of subsection (b)(1)(C), for all physicians' services for each fee schedule area the Secretary shall establish a geographic adjustment factor equal to the sum of the geographic cost-of-practice adjustment factor (specified in paragraph (3)), the geographic malpractice adjustment factor (specified in paragraph (4)), and the geographic physician work adjustment factor (specified in paragraph (5)) for the service and the area.

"(3) GEOGRAPHIC COST-OF-PRACTICE ADJUSTMENT FACTOR.—For purposes of paragraph (2), the 'geographic cost-of-practice adjustment factor', for a service for a fee schedule area, is the product of—

"(A) the proportion of the total relative value for the service that reflects the relative value units for the practice expense component, and

"(B) the geographic cost-of-practice index value for the area for the service, based on the index established under paragraph (1)(A)(i) or (1)(B) (as the case may be).

"(4) GEOGRAPHIC MALPRACTICE ADJUSTMENT FACTOR.—For purposes of paragraph (2), the 'geographic malpractice adjustment factor', for a service for a fee schedule area, is the product of—

"(A) the proportion of the total relative value for the service that reflects the relative value units for the malpractice component, and

"(B) the geographic malpractice index value for the area, based on the index established under paragraph (1)(A)(ii).

"(5) GEOGRAPHIC PHYSICIAN WORK ADJUSTMENT FACTOR.—For purposes of paragraph (2), the 'geographic physician work adjustment factor', for a service for a fee schedule area, is the product of—

"(A) the proportion of the total relative value for the service that reflects the relative value units for the work component, and

"(B) the geographic physician work index value for the area, based on the index established under paragraph (1)(A)(iii).

"(f) MEDICARE VOLUME PERFORMANCE STANDARD RATES OF INCREASE.—

"(1) PROCESS FOR ESTABLISHING MEDICARE VOLUME PERFORMANCE STANDARD RATES OF INCREASE.—

"(A) SECRETARY'S RECOMMENDATION.—By not later than April 15 of each year (beginning with 1990), the Secretary shall transmit to the Congress a recommendation on performance standard rates of increase for all physicians' services and for each category of such services for the fiscal year beginning in such year. In making the recommendation, the Secretary shall confer with organizations representing physicians and shall consider—

"(i) inflation,

"(ii) changes in numbers of enrollees (other than HMO enrollees) under this part,

"(iii) changes in the age composition of enrollees (other than HMO enrollees) under this part,

"(iv) changes in technology,

"(v) evidence of inappropriate utilization of services,

"(vi) evidence of lack of access to necessary physicians' services, and

"(vii) such other factors as the Secretary considers appropriate.

"(B) COMMISSION REVIEW.—The Physician Payment Review Commission shall review the recommendation transmitted during a year under subparagraph (A) and shall make its recommendation to Congress, by not later than May 15 of the year, respecting the performance standard rates of increase for the fiscal year beginning in that year.

Federal Register, publication.

"(C) PUBLICATION OF PERFORMANCE STANDARD RATES OF INCREASE.—The Secretary shall cause to have published in the Federal Register, in the last 15 days of October of each year (beginning with 1990), the performance standard rates of increase for all physicians' services and for each category of physicians' services for the fiscal year beginning in that year. The Secretary shall cause to have published in the Federal Register, by not later than January 1, 1990, the performance standard rate of increase under subparagraph (D) for fiscal year 1990.

"(D) PERFORMANCE STANDARD RATE OF INCREASE FOR FISCAL YEAR 1990.—The performance standard rate of increase for fiscal year 1990 is equal to the sum of—

"(i) the Secretary's estimate of the weighted average percentage increase in the reasonable charges for physicians' services (as defined in subsection (f)(5)(A)) under this part for calendar years included in fiscal year 1990,

"(ii) the Secretary's estimate of the percentage increase or decrease in the average number of individuals enrolled under this part (other than HMO enrollees) from fiscal year 1989 to fiscal year 1990,

"(iii) the Secretary's estimate of the average annual percentage growth in volume and intensity of physicians' services under this part for the 5-fiscal-year period ending with fiscal year 1989 (based upon information contained in the most recent annual report made pursuant to section 1841(b)(2)), and

"(iv) the Secretary's estimate of the percentage increase or decrease in expenditures for physicians' services (as defined in subsection (f)(5)(A)) in fiscal year 1990 (compared with fiscal year 1989) which will result from changes in law or regulations and which is not taken into account in the percentage increase described in clause (i),

reduced by ½ percent.

"(2) SPECIFICATION OF PERFORMANCE STANDARD RATES OF INCREASE FOR SUBSEQUENT FISCAL YEARS.—

"(A) IN GENERAL.—Unless Congress otherwise provides, subject to paragraph (4), each performance standard rate of increase for a fiscal year (beginning with fiscal year 1991) shall be equal to the sum of—

"(i) the Secretary's estimate of the weighted average percentage increase in the fees for physicians' services (as defined in subsection (f)(5)(A)) under this part for calendar years included in the fiscal year involved,

"(ii) the Secretary's estimate of the percentage increase or decrease in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) the Secretary's estimate of the average annual percentage growth in volume and intensity of physicians' services under this part for the 5-fiscal-year period ending with the preceding fiscal year (based upon information contained in the most recent annual report made pursuant to section 1841(b)(2)), and

"(iv) the Secretary's estimate of the percentage increase or decrease in expenditures for physicians' services (as defined in subsection (f)(5)(A)) in the fiscal year (compared with the preceding fiscal year) which will result from changes in law or regulations and which is not taken into account in the percentage increase described in clause (i),

reduced by the performance standard factor (specified in subparagraph (B)). In clause (i), the term 'fees' means, with respect to 1991, reasonable charges and, with respect to any succeeding year, fee schedule amounts.

"(B) PERFORMANCE STANDARD FACTOR.—For purposes of subparagraph (A), the performance standard factor—

"(i) for 1991 is 1 percentage point,

"(ii) for 1992 is 1½ percentage points, and

"(iii) for each succeeding year is 2 percentage points.

"(3) QUARTERLY REPORTING.—The Secretary shall establish procedures for providing, on a quarterly basis to the Physician Payment Review Commission, the Congressional Budget Office, the Congressional Research Service, the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate, information on compliance with performance standard rates of increase established under this subsection.

"(4) SEPARATE GROUP-SPECIFIC PERFORMANCE STANDARD RATES OF INCREASE.—

"(A) IMPLEMENTATION OF PLAN.—Subject to paragraph (B), the Secretary shall, after completion of the study required under section 6102(e)(3) of the Omnibus Budget Reconciliation Act of 1989, but not before October 1, 1991, implement a plan under which qualified physician groups could elect annually separate performance standard rates of increase other than the performance standard rate of increase established for the year under paragraph (2) for such physicians. The Secretary shall develop criteria to determine which physician groups are eligible to elect to have applied to such groups separate performance standard rates of increase and the methods by which such group-specific performance standard rates of increase would be accomplished. The Secretary shall report to the Congress on the criteria and methods by April 15, 1991. The Physician Payment Review Commission shall review and comment on such recommendations by May 15, 1991. Before implementing group-specific performance standard rates of increase, the Secretary shall provide for notice and comment in the Federal Register and consult with organizations representing physicians.

Reports.

Federal Register, publication.

"(B) APPROVAL.—The Secretary may not implement the plan described in subparagraph (A), unless Congress specifically approves the plan.

"(5) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to an HMO enrollee under a risk-sharing contract under section 1876.

"(B) HMO ENROLLEE.—The term 'HMO enrollee' means, with respect to a fiscal year, an individual enrolled under this part who is enrolled with an entity under a risk-sharing contract under section 1876 in the fiscal year.

"(g) LIMITATION ON BENEFICIARY LIABILITY.—

"(1) LIMITATION ON ACTUAL CHARGES FOR UNASSIGNED CLAIMS.—If a nonparticipating physician knowingly and willfully bills on a repeated basis for physicians' services (furnished with respect to an individual enrolled under this part on or after January 1, 1991) an actual charge in excess of the limiting charge described in paragraph (2) and for which payment is not made on an assignment-related basis under this part, the Secretary may apply sanctions against such physician in accordance with section 1842(j)(2).

"(2) LIMITING CHARGE DEFINED.—

"(A) FOR 1991.—For physicians' services of a physician furnished during 1991, the 'limiting charge' shall be the same percentage (or, if less, 25 percent) above the recognized payment amount under this part with respect to the physician (as a nonparticipating physician) as the percentage by which—

"(i) the maximum allowable actual charge (as determined under section 1842(j)(1)(C) as of December 31, 1990, or, if less, the maximum actual charge otherwise permitted for the service under this part as of such date) for the service of the physician, exceeds

"(ii) the recognized payment amount for the service of the physician (as a nonparticipating physician) as of such date.

"(B) FOR 1992.—For physicians' services furnished during 1992, the 'limiting charge' shall be the same percentage (or, if less, 20 percent) above the recognized payment amount under this part for nonparticipating physicians as the percentage by which—

"(i) the limiting charge (as determined under subparagraph (A) as of December 31, 1991) for the service, exceeds

"(ii) the recognized payment amount for the service for nonparticipating physicians as of such date.

"(C) AFTER 1992.—For physicians' services furnished in a year after 1992, the 'limiting charge' shall be 115 percent of the recognized payment amount under this part for nonparticipating physicians.

"(D) RECOGNIZED PAYMENT AMOUNT.—In this section, the term 'recognized payment amount' means, for services furnished on or after January 1, 1992, the fee schedule amount determined under subsection (a), and, for services furnished during 1991, the applicable percentage (as defined in section 1842(b)(4)(A)(iv)) of the prevailing charge (or fee schedule amount) for nonparticipating physicians for that year.

"(3) LIMITATION ON CHARGES FOR MEDICARE BENEFICIARIES ELIGIBLE FOR MEDICAID BENEFITS.—

"(A) IN GENERAL.—Payment for physicians' services furnished on or after April 1, 1990, to an individual who is enrolled under this part and eligible for any medical assistance (including as a qualified medicare beneficiary, as defined in section 1905(p)(1)) with respect to such services under a State plan approved under title XIX may only be made on an assignment-related basis.

"(B) PENALTY.—A person may not bill for physicians' services subject to subparagraph (A) other than on an assignment-related basis. If a person knowingly and willfully bills for physicians' services in violation of the previous sentence, the Secretary may apply sanctions against the person in accordance with section 1842(j)(2).

"(4) PHYSICIAN SUBMISSION OF CLAIMS.—

"(A) IN GENERAL.—For services furnished on or after September 1, 1990, within 1 year after the date of providing a service for which payment is made under this part on a reasonable charge or fee schedule basis, a physician, supplier, or other person (or an employer or facility in the cases described in section 1842(b)(6)(A))—

Claims.

"(i) shall complete and submit a claim for such service on a standard claim form specified by the Secretary to the carrier on behalf of a beneficiary, and

"(ii) may not impose any charge relating to completing and submitting such a form.

"(B) PENALTY.—(i) With respect to an assigned claim wherever a physician, provider, supplier or other person (or an employer or facility in the cases described in section 1842(b)(6)(A)) fails to submit such a claim as required in subparagraph (A), the Secretary shall reduce by 10 percent the amount that would otherwise be paid for such claim under this part.

"(ii) If a physician, supplier, or other person (or an employer or facility in the cases described in section 1842(b)(6)(A)) fails to submit a claim required to be submitted under subparagraph (A) or imposes a charge in violation of such subparagraph, the Secretary shall apply the sanction with respect to such a violation in the same manner as a sanction may be imposed under section 1842(p)(3) for a violation of section 1842(p)(1).

"(5) ELECTRONIC BILLING; DIRECT DEPOSIT.—The Secretary shall encourage and develop a system providing for expedited payment for claims submitted electronically. The Secretary shall also encourage and provide incentives allowing for direct deposit as payments for services furnished by participating physicians. The Secretary shall provide physicians with such technical information as necessary to enable such physicians to submit claims electronically. The Secretary shall submit a plan to Congress on this paragraph by May 1, 1990.

"(6) MONITORING OF CHARGES.—

"(A) IN GENERAL.—The Secretary shall monitor—

"(i) the actual charges of nonparticipating physicians for physicians' services furnished on or after January 1, 1991, to individuals enrolled under this part, and

"(ii) changes (by specialty, type of service, and geographic area) in (I) the proportion of expenditures for physicians' services provided under this part by participating physicians, (II) the proportion of expenditures for such services for which payment is made under this part on an assignment-related basis, and (III) the amounts charged above the recognized payment amounts under this part.

"(B) REPORT.—The Secretary shall, by not later than April 15 of each year (beginning in 1992), report to the Congress regarding the changes described in subparagraph (A)(ii).

"(C) PLAN.—If the Secretary finds that there has been a significant decrease in the proportions described in subclauses (I) and (II) of subparagraph (A)(ii) or an increase in the amounts described in subclause (III) of that subparagraph, the Secretary shall develop a plan to address such a problem and transmit to Congress recommendations regarding the plan. The Physician Payment Review Commission shall review the Secretary's plan and recommendations and transmit to Congress its comments regarding such plan and recommendations.

"(7) MONITORING OF UTILIZATION AND ACCESS.—

"(A) IN GENERAL.—The Secretary shall monitor—

"(i) changes in the utilization of and access to services furnished under this part within geographic, population, and service related categories,

"(ii) possible sources of inappropriate utilization of services furnished under this part which contribute to the overall level of expenditures under this part, and

"(iii) factors underlying these changes and their interrelationships.

"(B) REPORT.—The Secretary shall by not later than April 15, of each year (beginning with 1991) report to the Congress on the changes described in subparagraph (A)(i) and shall include in the report an examination of the factors (including factors relating to different services and specific categories and groups of services and geographic and demographic variations in utilization) which may contribute to such changes.

"(C) RECOMMENDATIONS.—The Secretary shall include in each annual report under subparagraph (B) recommendations—

"(i) addressing any identified patterns of inappropriate utilization,

"(ii) on utilization review,

"(iii) on physician education or patient education,

"(iv) addressing any problems of beneficiary access to care made evident by the monitoring process, and

"(v) on such other matters as the Secretary deems appropriate.

The Physician Payment Review Commission shall comment on the Secretary's recommendations and in developing its comments, the Commission shall convene and consult a panel of physician experts to evaluate the implications of medical utilization patterns for the quality of and access to patient care.

"(h) SENDING INFORMATION TO PHYSICIANS.—Before the beginning of each year (beginning with 1992), the Secretary shall send to each physician furnishing physicians' services under this part, for services commonly performed by the physician, information on fee schedule amounts that apply for the year in the fee schedule area for participating and non-participating physicians, and the maximum amount that may be charged consistent with subsection (g)(2). Such information shall be transmitted in conjunction with notices to physicians under section 1842(h) (relating to the participating physician program) for a year.

"(i) MISCELLANEOUS PROVISIONS.—

"(1) RESTRICTION ON ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869 or otherwise of—

"(A) the determination of the historical payment basis (as defined in subsection (a)(2)(C)(i)),

"(B) the determination of relative values and relative value units under subsection (c),

"(C) the determination of conversion factors under subsection (d),

"(D) the establishment of geographic adjustment factors under subsection (e), and

"(E) the establishment of the system for the coding of physicians' services under this section.

"(j) DEFINITIONS.—In this section:

"(1) CATEGORY.—The term 'category' means, with respect to physicians' services, surgical services, and all physicians' services other than surgical services, and such other category or categories of physicians' services as the Secretary, from time to time, defines in regulation. The Secretary shall define surgical services and publish such definition in the Federal Register no later than May 1, 1990, after consultation with organizations representing physicians.

Federal Register, publication.

"(2) FEE SCHEDULE AREA.—The term 'fee schedule area' means a locality used under section 1842(b) for purposes of computing payment amounts for physicians' services.

"(3) PHYSICIANS' SERVICES.—The term 'physicians' services' includes items and services described in paragraphs (1), (2)(A), (2)(D), (3), and (4) of section 1861(s) (other than clinical diagnostic laboratory tests and such other items and services as the Secretary may specify).

"(4) PRACTICE EXPENSES.—The term 'practice expenses' includes all expenses for furnishing physicians' services, excluding malpractice expenses, physician compensation, and other physician fringe benefits.".

(b) REQUIREMENTS FOR CARRIERS TO PROFILE PHYSICIANS.—Section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by inserting "and" at the end of subparagraph (K), and

(3) by inserting after subparagraph (K) the following new subparagraph:

"(L) will monitor and profile physicians' billing patterns within each area or locality and provide comparative data to physicians whose utilization patterns vary significantly from other physicians in the same payment area or locality;".

(c) RURAL AND INNER-CITY ACCESS ADJUSTMENTS.—

(1) ADJUSTMENTS.—Section 1833(m) of such Act (42 U.S.C. 1395l(m)) is amended—

(A) by striking "class 1 or class 2", and

(B) by striking "5 percent" and inserting "10 percent"

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to services furnished on or after January 1, 1991. 42 USC 1395*l* note.

(d) STUDIES.— 42 USC 1395w-4 note.

(1) GAO STUDY OF ALTERNATIVE PAYMENT METHODOLOGY FOR MALPRACTICE COMPONENT.—The Comptroller General shall provide for—

(A) a study of alternative ways of paying, under section 1848 of the Social Security Act, for the malpractice component for physicians' services, in a manner that would assure, to the extent practicable, payment for medicare's share of malpractice insurance premiums, and

(B) a study to examine alternative resolution procedures for malpractice claims respecting professional services furnished under the medicare program.

The examination under subparagraph (B) shall include review of the feasibility of establishing procedures that involve no-fault payment or that involve mandatory arbitration. By not later than April 1, 1991, the Comptroller General shall submit a report to Congress on the results of the studies. Reports.

(2) STUDY OF PAYMENTS TO RISK-CONTRACTING PLANS.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall conduct a study of how payments under section 1848 of the Social Security Act may affect payments to eligible organizations with risk-sharing contracts under section 1876 of such Act. By not later than April 1, 1990, the Secretary shall submit a report to Congress on such study and shall include in the report such recommendations for such changes in the methodology for payment under such risk-sharing contracts as the Secretary deems appropriate. Reports.

(3) STUDY OF VOLUME PERFORMANCE STANDARD RATES OF INCREASE BY GEOGRAPHY, SPECIALTY, AND TYPE OF SERVICE.—The Secretary shall conduct a study of the feasibility of establishing, under section 1848(f) of the Social Security Act, separate performance standard rates of increase for services furnished by or within each of the following (including combinations of the following):

(A) Geographic area (such as a region, State, or other area).

(B) Specialty or group of specialties of physicians.

(C) Type of services (such as primary care, services of hospital-based physicians, and other inpatient services).

Such study shall also include the scope of services included within, or excluded from, the rate of increase in expenditure system. By not later than July 1, 1990, the Secretary shall submit a report to Congress on such study and shall include in the report such recommendations respecting the feasibility of establishing separate performance standard rates of increase in expenditures as the Secretary deems appropriate. Reports.

(4) HHS VISIT CODE MODIFICATION STUDY.—The Secretary shall conduct a study of the desirability of including time as a factor in establishing visit codes. By not later than July 1, 1991, the Secretary shall consult with the Physician Payment Review Commission, and submit a report to Congress on such study and shall include in the report recommendations respecting the desirability of modifying the number of visit codes, whether greater coding uniformity would result from including time in visit codes when compared with clarifying the clinical descrip- Reports.

tions of existing codes, and the ability to audit physician time accurately.

(5) COMMISSION STUDY OF PAYMENT FOR PRACTICE EXPENSES.—The Physician Payment Review Commission shall conduct a study of—

(A) the extent to which practice costs and malpractice costs vary by geographic locality (including region, State, Metropolitan Statistical Areas, or other areas and by specialty),

(B) the extent to which available geographic practice-cost indices accurately reflect practice costs and malpractice costs in rural areas,

(C) which geographic units would be most appropriate to use in measuring and adjusting practice costs and malpractice costs,

(D) appropriate methods for allocating malpractice expenses to particular procedures which could be incorporated into the determination of relative values for particular procedures using a consensus panel and other appropriate methodologies,

(E) the effect of alternative methods of allocating malpractice expenses on medicare expenditures by specialty, type of service, and by geographic area, and

(F) the special circumstances of rural independent laboratories in determining the geographic cost-of-practice index.

Reports.

By not later than July 1, 1991, the Commission shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study and shall include in the report such recommendations as it deems appropriate.

(6) COMMISSION STUDY OF GEOGRAPHIC PAYMENT AREAS.—The Physician Payment Review Commission shall conduct a study of the feasibility and desirability of using Metropolitan Statistical Areas or other payment areas for purposes of payment for physicians' services under part B of title XVIII of the Social Security Act. Reports. By not later than July 1, 1991, the Commission shall submit a report to Congress on such study and shall include in the report recommendations on the desirability of retaining current carrier-wide localities, changing to a system of statewide localities, or adopting Metropolitan Statistical Areas or other payment areas for purposes of payment under such part B.

(7) COMMISSION STUDY OF PAYMENT FOR NON-PHYSICIAN PROVIDERS OF MEDICARE SERVICES.—The Physician Payment Review Commission shall conduct a study of the implications of a resource-based fee schedule for physicians' services for non-physician practitioners, such as physician assistants, clinical psychologists, nurse midwives, and other health practitioners whose services can be billed under the medicare program on a fee-for-service basis. The study shall address (A) what the proper level of payment should be for these practitioners, (B) whether or not adjustments to their payments should be subject to the medicare volume performance standard process, and (C) what update to use for services outside the medicare volume performance standard process. Reports. The Commission shall submit a report to Congress on such study by not later than July 1, 1991.

(8) Commission study of physician fees under medicaid.—The Physician Payment Review Commission shall conduct a study on physician fees under State medicaid programs established under title XIX of the Social Security Act. The Commission shall specifically examine in such study the adequacy of physician reimbursement under such programs, physician participation in such programs, and access to care by medicaid beneficiaries. By no later than July 1, 1991, the Commission shall submit a report to Congress on such study and shall include such recommendations as the Commission deems appropriate.

Reports.

(9) GAO study on physician anti-trust issues.—The Comptroller General shall conduct a study of the effect of anti-trust laws on the ability of physicians to act in groups to educate and discipline peers of such physicians in order to reduce and eliminate ineffective practice patterns and inappropriate utilization. The study shall further address anti-trust issues as they relate to the adoption of practice guidelines by third-party payers and the role that practice guidelines might play as a defense in malpractice cases. By no later than July 1, 1991, the Comptroller General shall submit a report to Congress on such study and shall make such recommendations as the Comptroller General deems appropriate.

Reports.

(e) Miscellaneous Conforming Amendments.—

(1) Reference to new payment rules.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before clause (M), and

(B) by inserting before the semicolon the following new clause: "and (N) with respect to expenses incurred for physicians' services (as defined in section 1848(j)(3)), the amounts paid shall be 80 percent of the payment basis determined under section 1848(a)(1)".

(2) Changing reference to maximum allowable actual charges.—Section 1842(b)(3)(G) of such Act (42 U.S.C. 1395u(b)(3)(G)) is amended by striking "maximum allowable actual charges (established under subsection (j)(1)(C))" and inserting "limiting charges established under subsection (j)(1)(C)".

(3) Differential for participating physicians.—Effective for physicians' services furnished on or after January 1, 1992, the first sentence of section 1842(b)(4)(A)(iv) of such Act (42 U.S.C. 1395u(b)(4)(A)(iv)) is amended by inserting "and before January 1, 1992," after "January 1, 1987,".

Effective date.

(4) Payment for physician assistants.—Section 1842(b)(12)(A)(ii)(II) of such Act (42 U.S.C. 1395u(b)(12)(A)(ii)(II)) is amended by inserting "(or, for services furnished on or after January 1, 1992, the fee schedule amount specified in section 1848, as the case may be)" after "prevailing charge rate for such services".

(5) Payment for certified registered nurse anesthetists.—Section 1833(a)(1)(H) of such Act (42 U.S.C. 1395l(a)(1)(H)) is amended by inserting "(or, for services furnished on or after January 1, 1992, the fee schedule amount provided under section 1848, as the case may be)" after "prevailing charge that would be recognized".

(6) PAYMENT FOR RADIOLOGIST SERVICES.—(A) Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)(J)) is amended by inserting "subject to section 1848," before "the amounts".

42 USC 1395m note.

(B) Section 4049(b)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking ", and until" and all that follows through "Social Security Act".

(7) PAYMENT FOR NURSE MIDWIVES.—Section 1833(a)(1)(K) of the Social Security Act (42 U.S.C. 1395l(a)(1)(K)) is amended by inserting ", or, for services furnished on or after January 1, 1992, 65 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician" after "for the same service performed by a physician".

(8) PHYSICIANS' SERVICES FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1881(b)(3)(A) of such Act (42 U.S.C. 1395rr(b)(3)(A)) is amended by inserting "or, for services furnished on or after January 1, 1992, on the basis described in section 1848" after "comparable services".

(9) EXTENSION OF MAXIMUM ALLOWABLE ACTUAL CHARGE LIMITS.—Subparagraphs (B)(ii) and (D)(v) of section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) are each amended by striking all that follows "after" the first place it appears and inserting "December 31, 1990.".

42 USC 1395u note.

(10) TREATMENT OF CERTAIN EYE EXAMINATION VISITS AS PRIMARY CARE SERVICES.—In applying section 1842(i)(4) of the Social Security Act for services furnished on or after January 1, 1990, intermediate and comprehensive office visits for eye examinations and treatments (codes 92002 and 92004) shall be considered to be primary care services.

42 USC 1395w-4 note.

(11) DISTRIBUTION OF MODEL FEE SCHEDULE.—By September 1, 1990, the Secretary shall develop a Model Fee Schedule, using the methodology set forth in section 1848 of the Social Security Act. The Model Fee Schedule shall include as many services as the Secretary concludes can be assigned valid relative values. The Secretary shall submit the Model Fee Schedule to the appropriate committees of Congress and make it generally available to the public.

Public information.

(f) PAYMENT FOR PATHOLOGY SERVICES.—

(1) FEE SCHEDULE.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(f) FEE SCHEDULE FOR PHYSICIAN PATHOLOGY SERVICES.—

"(1) APPLICATION.—Subject to section 1848, the Secretary shall provide for application of a fee schedule with respect to physician pathology services. Subject to paragraph (2), such fee schedule shall be based on relative values developed by the Secretary, in consultation with organizations representing physicians performing such services. Such fee schedule shall be designed so as to result in expenditures under this part for services covered under the schedule in an amount that would not exceed the amount of such expenditures which would otherwise occur. In developing such fee schedule the Secretary shall take into account the special circumstances of rural independent laboratories.

"(2) GEOGRAPHIC AREA ADJUSTMENT.—The Secretary shall provide for a geographic area adjustment of the conversion factors in a manner comparable to the geographic area adjustment applied to physicians' services under section 1848 during the year in which the services are furnished.".

(2) Payment on basis of fee schedule.—Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)(J)) is amended—

(A) by inserting "or physician pathology services" after "1834(b)(6))", and

(B) by inserting "or section 1834(f), respectively" after "1834(b)".

(3) Effective date.—The amendments made by this subsection shall apply to services furnished on or after January 1, 1991. 42 USC 1395*l* note.

(g) Effective Date.—Except as otherwise provided in this section, this section, and the amendments made by this section, shall take effect on the date of the enactment of this Act. 42 USC 1395*l* note.

SEC. 6103. ESTABLISHMENT OF AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

(a) In General.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title VIII the following new title:

"TITLE IX—AGENCY FOR HEALTH CARE POLICY AND RESEARCH

"Part A—Establishment and General Duties

"SEC. 901. ESTABLISHMENT.

42 USC 299.

"(a) In General.—There is established within the Service an agency to be known as the Agency for Health Care Policy and Research.

"(b) Purpose.—The purpose of the Agency is to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services, through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services.

"(c) Appointment of Administrator.—There shall be at the head of the Agency an official to be known as the Administrator for Health Care Policy and Research. The Administrator shall be appointed by the Secretary. The Secretary, acting through the Administrator, shall carry out the authorities and duties established in this title.

"SEC. 902. GENERAL AUTHORITIES AND DUTIES.

42 USC 299a.

"(a) In General.—In carrying out section 901(b), the Administrator shall conduct and support research, demonstration projects, evaluations, training, guideline development, and the dissemination of information, on health care services and on systems for the delivery of such services, including activities with respect to—

"(1) the effectiveness, efficiency, and quality of health care services;

"(2) subject to subsection (d), the outcomes of health care services and procedures;

"(3) clinical practice, including primary care and practice-oriented research;

"(4) health care technologies, facilities, and equipment;

"(5) health care costs, productivity, and market forces;

"(6) health promotion and disease prevention;

"(7) health statistics and epidemiology; and

"(8) medical liability.

"(b) REQUIREMENTS WITH RESPECT TO RURAL AREAS AND UNDERSERVED POPULATIONS.—In carrying out subsection (a), the Administrator shall undertake and support research, demonstration projects, and evaluations with respect to—

"(1) the delivery of health care services in rural areas (including frontier areas); and

"(2) the health of low-income groups, minority groups, and the elderly.

"(c) MULTIDISCIPLINARY CENTERS.—The Administrator may provide financial assistance to public or nonprofit private entities for meeting the costs of planning and establishing new centers, and operating existing and new centers, for multidisciplinary health services research, demonstration projects, evaluations, training, policy analysis, and demonstrations respecting the matters referred to in subsection (b).

"(d) RELATION TO CERTAIN AUTHORITIES REGARDING SOCIAL SECURITY.—Activities authorized in this section may include, and shall be appropriately coordinated with, experiments, demonstration projects, and other related activities authorized by the Social Security Act and the Social Security Amendments of 1967. Activities under subsection (a)(2) of this section that affect the programs under titles XVIII and XIX of the Social Security Act shall be carried out consistent with section 1142 of such Act.

42 USC 299a-1.

"SEC. 903. DISSEMINATION.

"(a) IN GENERAL.—The Administrator shall—

"(1) promptly publish, make available, and otherwise disseminate, in a form understandable and on as broad a basis as practicable so as to maximize its use, the results of research, demonstration projects, and evaluations conducted or supported under this title and the guidelines, standards, and review criteria developed under this title;

Public information.

"(2) promptly make available to the public data developed in such research, demonstration projects, and evaluations;

"(3) provide indexing, abstracting, translating, publishing, and other services leading to a more effective and timely dissemination of information on research, demonstration projects, and evaluations with respect to health care to public and private entities and individuals engaged in the improvement of health care delivery and the general public, and undertake programs to develop new or improved methods for making such information available; and

State and local governments.

"(4) as appropriate, provide technical assistance to State and local government and health agencies and conduct liaison activities to such agencies to foster dissemination.

"(b) PROHIBITION AGAINST RESTRICTIONS.—Except as provided in subsection (c), the Administrator may not restrict the publication or dissemination of data from, or the results of, projects conducted or supported under this title.

"(c) LIMITATION ON USE OF CERTAIN INFORMATION.—No information, if an establishment or person supplying the information or described in it is identifiable, obtained in the course of activities undertaken or supported under this title may be used for any purpose other than the purpose for which it was supplied unless such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose. Such information may not be published or released in other form if the person who supplied the information or who is described in it is identifiable unless such person has consented (as determined under regulations of the Secretary) to its publication or release in other form.

"(d) CERTAIN INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of subsection (a)(3). Contracts.

"SEC. 904. HEALTH CARE TECHNOLOGY AND TECHNOLOGY ASSESSMENT. 42 USC 299a-2.

"(a) IN GENERAL.—In carrying out section 901(b), the Administrator shall promote the development and application of appropriate health care technology assessments—

"(1) by identifying needs in, and establishing priorities for, the assessment of specific health care technologies;

"(2) by developing and evaluating criteria and methodologies for health care technology assessment;

"(3) by conducting and supporting research on the development and diffusion of health care technology;

"(4) by conducting and supporting research on assessment methodologies; and

"(5) by promoting education, training, and technical assistance in the use of health care technology assessment methodologies and results.

"(b) SPECIFIC ASSESSMENTS.—

"(1) IN GENERAL.—In carrying out section 901(b), the Administrator shall conduct and support specific assessments of health care technologies.

"(2) CONSIDERATION OF CERTAIN FACTORS.—In carrying out paragraph (1), the Administrator shall consider the safety, efficacy, and effectiveness, and, as appropriate, the cost-effectiveness, legal, social, and ethical implications, and appropriate uses of such technologies, including consideration of geographic factors.

"(c) INFORMATION CENTER.—

"(1) IN GENERAL.—There shall be established at the National Library of Medicine an information center on health care technologies and health care technology assessment. Establishment.

"(2) INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of paragraph (1). Contracts.

"(d) RECOMMENDATIONS WITH RESPECT TO HEALTH CARE TECHNOLOGY.—

"(1) IN GENERAL.—The Administrator shall make recommendations to the Secretary with respect to whether specific health care technologies should be reimbursable under federally financed health programs, including recommendations with respect to any conditions and requirements under which any such reimbursements should be made.

"(2) CONSIDERATION OF CERTAIN FACTORS.—In making recommendations respecting health care technologies, the Administrator shall consider the safety, efficacy, and effectiveness, and, as appropriate, the cost-effectiveness and appropriate uses of such technologies.

"(3) CONSULTATIONS.—In carrying out this subsection, the Administrator shall cooperate and consult with the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the heads of any other interested Federal department or agency.

"PART B—FORUM FOR QUALITY AND EFFECTIVENESS IN HEALTH CARE

42 USC 299b.

"SEC. 911. ESTABLISHMENT OF OFFICE.

"There is established within the Agency an office to be known as the Office of the Forum for Quality and Effectiveness in Health Care. The office shall be headed by a director, who shall be appointed by the Administrator.

42 USC 299b-1.

"SEC. 912. DUTIES.

"(a) ESTABLISHMENT OF FORUM PROGRAM.—The Administrator, acting through the Director, shall establish a program to be known as the Forum for Quality and Effectiveness in Health Care. For the purpose of promoting the quality, appropriateness, and effectiveness of health care, the Director, using the process set forth in section 913, shall arrange for the development and periodic review and updating of—

"(1) clinically relevant guidelines that may be used by physicians, educators, and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically; and

"(2) standards of quality, performance measures, and medical review criteria through which health care providers and other appropriate entities may assess or review the provision of health care and assure the quality of such care.

"(b) CERTAIN REQUIREMENTS.—Guidelines, standards, performance measures, and review criteria under subsection (a) shall—

"(1) be based on the best available research and professional judgment regarding the effectiveness and appropriateness of health care services and procedures;

"(2) be presented in formats appropriate for use by physicians, health care practitioners, providers, medical educators, and medical review organizations and in formats appropriate for use by consumers of health care; and

"(3) include treatment-specific or condition-specific practice guidelines for clinical treatments and conditions in forms appropriate for use in clinical practice, for use in educational programs, and for use in reviewing quality and appropriateness of medical care.

"(c) AUTHORITY FOR CONTRACTS.—In carrying out this part, the Director may enter into contracts with public or nonprofit private entities.

"(d) DATE CERTAIN FOR INITIAL GUIDELINES AND STANDARDS.—The Administrator, by not later than January 1, 1991, shall assure the development of an initial set of guidelines, standards, performance measures, and review criteria under subsection (a) that includes not less than 3 clinical treatments or conditions described in section 1142(a)(3) of the Social Security Act.

"(e) RELATIONSHIP WITH MEDICARE PROGRAM.—To assure an appropriate reflection of the needs and priorities of the program under title XVIII of the Social Security Act, activities under this part that affect such program shall be conducted consistent with section 1142 of such Act.

"SEC. 913. PROCESS FOR DEVELOPMENT OF GUIDELINES AND STANDARDS.

42 USC 299b-2.

"(a) Development Through Contracts and Panels.—The Director shall—

"(1) enter into contracts with public and nonprofit private entities for the purpose of developing and periodically reviewing and updating the guidelines, standards, performance measures, and review criteria described in section 912(a); and

"(2) convene panels of appropriately qualified experts (including practicing physicians with appropriate expertise) and health care consumers for the purpose of—

"(A) developing and periodically reviewing and updating the guidelines, standards, performance measures, and review criteria described in section 912(a); and

"(B) reviewing the guidelines, standards, performance measures, and review criteria developed under contracts under paragraph (1).

"(b) Authority for Additional Panels.—The Director may convene panels of appropriately qualified experts (including practicing physicians with appropriate expertise) and health care consumers for the purpose of—

"(1) developing the standards and criteria described in section 914(b); and

"(2) providing advice to the Administrator and the Director with respect to any other activities carried out under this part or under section 902(a)(2).

"(c) Selection of Panel Members.—In selecting individuals to serve on panels convened under this section, the Director shall consult with a broad range of interested individuals and organizations, including organizations representing physicians in the general practice of medicine and organizations representing physicians in specialties and subspecialties pertinent to the purposes of the panel involved. The Director shall seek to appoint physicians reflecting a variety of practice settings.

"SEC. 914. ADDITIONAL REQUIREMENTS.

42 USC 299b-3.

"(a) Program Agenda.—

"(1) In general.—The Administrator shall provide for an agenda for the development of the guidelines, standards, performance measures, and review criteria described in section 912(a), including—

"(A) with respect to the guidelines, identifying specific diseases, disorders, and other health conditions for which the guidelines are to be developed and those that are to be given priority in the development of the guidelines; and

"(B) with respect to the standards, performance measures, and review criteria, identifying specific aspects of health care for which the standards, performance measures, and review criteria are to be developed and those that are to be given priority in the development of the standards, performance measures, and review criteria.

"(2) Consideration of certain factors in establishing priorities.—

"(A) Factors considered by the Administrator in establishing priorities for purposes of paragraph (1) shall include consideration of the extent to which the guidelines, standards, performance measures, and review criteria involved can be expected—

"(i) to improve methods of prevention, diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;

"(ii) to reduce clinically significant variations among physicians in the particular services and procedures utilized in making diagnoses and providing treatments; and

"(iii) to reduce clinically significant variations in the outcomes of health care services and procedures.

"(B) In providing for the agenda required in paragraph (1), including the priorities, the Administrator shall consult with the Administrator of the Health Care Financing Administration and otherwise act consistent with section 1142(b)(3) of the Social Security Act.

"(b) STANDARDS AND CRITERIA.—

"(1) PROCESS FOR DEVELOPMENT, REVIEW, AND UPDATING.—The Director shall establish standards and criteria to be utilized by the recipients of contracts under section 913, and by the expert panels convened under such section, with respect to the development and periodic review and updating of the guidelines, standards, performance measures, and review criteria described in section 912(a).

"(2) AWARD OF CONTRACTS.—The Director shall establish standards and criteria to be utilized for the purpose of ensuring that contracts entered into for the development or periodic review or updating of the guidelines, standards, performance measures, and review criteria described in section 912(a) will be entered into only with appropriately qualified entities.

"(3) CERTAIN REQUIREMENTS FOR STANDARDS AND CRITERIA.—The Director shall ensure that the standards and criteria established under paragraphs (1) and (2) specify that—

"(A) appropriate consultations with interested individuals and organizations are to be conducted in the development of the guidelines, standards, performance measures, and review criteria described in section 912(a); and

"(B) such development may be accomplished through the adoption, with or without modification, of guidelines, standards, performance measures, and review criteria that—

"(i) meet the requirements of this part; and

"(ii) are developed by entities independently of the program established in this part.

"(4) IMPROVEMENTS OF STANDARDS AND CRITERIA.—The Director shall conduct and support research with respect to improving the standards and criteria developed under this subsection.

"(c) DISSEMINATION.—The Director shall promote and support the dissemination of the guidelines, standards, performance measures, and review criteria described in section 912(a). Such dissemination shall be carried out through organizations representing health care providers, organizations representing health care consumers, peer review organizations, accrediting bodies, and other appropriate entities.

"(d) PILOT TESTING.—The Director may conduct or support pilot testing of the guidelines, standards, performance measures, and review criteria developed under section 912(a). Any such pilot testing may be conducted prior to, or concurrently with, their dissemination under subsection (c).

"(e) EVALUATIONS.—The Director shall conduct and support evaluations of the extent to which the guidelines, standards, performance standards, and review criteria developed under section 912 have had an effect on the clinical practice of medicine.

"(f) RECOMMENDATIONS TO ADMINISTRATOR.—The Director shall make recommendations to the Administrator on activities that should be carried out under section 902(a)(2) and under section 1142 of the Social Security Act, including recommendations of particular research projects that should be carried out with respect to—

"(1) evaluating the outcomes of health care services and procedures;

"(2) developing the standards and criteria required in subsection (b); and

"(3) promoting the utilization of the guidelines, standards, performance standards, and review criteria developed under section 912(a).".

(b) OUTCOMES OF HEALTH CARE SERVICES AND PROCEDURES.—

(1) ESTABLISHMENT OF PROGRAM OF RESEARCH.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"RESEARCH ON OUTCOMES OF HEALTH CARE SERVICES AND PROCEDURES

"SEC. 1142. (a) ESTABLISHMENT OF PROGRAM.— 42 USC 1320b-12.

"(1) IN GENERAL.—The Secretary, acting through the Administrator for Health Care Policy and Research, shall—

"(A) conduct and support research with respect to the outcomes, effectiveness, and appropriateness of health care services and procedures in order to identify the manner in which diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically; and

"(B) assure that the needs and priorities of the program under title XVIII are appropriately reflected in the development and periodic review and updating (through the process set forth in section 913 of the Public Health Service Act) of treatment-specific or condition-specific practice guidelines for clinical treatments and conditions in forms appropriate for use in clinical practice, for use in educational programs, and for use in reviewing quality and appropriateness of medical care.

"(2) EVALUATIONS OF ALTERNATIVE SERVICES AND PROCEDURES.—In carrying out paragraph (1), the Secretary shall conduct or support evaluations of the comparative effects, on health and functional capacity, of alternative services and procedures utilized in preventing, diagnosing, treating, and clinically managing diseases, disorders, and other health conditions.

"(3) INITIAL GUIDELINES.—

"(A) In carrying out paragraph (1)(B) of this subsection, and section 912(d) of the Public Health Service Act, the Secretary shall, by not later than January 1, 1991, assure the development of an initial set of the guidelines specified in paragraph (1)(B) that shall include not less than 3 clinical treatments or conditions that—

"(i)(I) account for a significant portion of expenditures under title XVIII; and

"(II) have a significant variation in the frequency or the type of treatment provided; or

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"(ii) otherwise meet the needs and priorities of the program under title XVIII, as set forth under subsection (b)(3).

"(B)(i) The Secretary shall provide for the use of guidelines developed under subparagrah (A) to improve the quality, effectiveness, and appropriateness of care provided under title XVIII. The Secretary shall determine the impact of such use on the quality, appropriateness, effectiveness, and cost of medical care provided under such title and shall report to the Congress on such determination by not later than January 1, 1993.

"(ii) For the purpose of carrying out clause (i), the Secretary shall expend, from the amounts specified in clause (iii), $1,000,000 for fiscal year 1990 and $1,500,000 for each of the fiscal years 1991 and 1992.

"(iii) For each fiscal year, for purposes of expenditures required in clause (ii)—

"(I) 60 percent of an amount equal to the expenditure involved is appropriated from the Federal Hospital Insurance Trust Fund (established under section 1817); and

"(II) 40 percent of an amount equal to the expenditure involved is appropriated from the Federal Supplementary Medical Insurance Trust Fund (established under section 1841).

"(b) PRIORITIES.—

"(1) IN GENERAL.—The Secretary shall establish priorities with respect to the diseases, disorders, and other health conditions for which research and evaluations are to be conducted or supported under subsection (a). In establishing such priorities, the Secretary shall, with respect to a disease, disorder, or other health condition, consider the extent to which—

"(A) improved methods of prevention, diagnosis, treatment, and clinical management can benefit a significant number of individuals;

"(B) there is significant variation among physicians in the particular services and procedures utilized in making diagnoses and providing treatments or there is significant variation in the outcomes of health care services or procedures due to different patterns of diagnosis or treatment;

"(C) the services and procedures utilized for diagnosis and treatment result in relatively substantial expenditures; and

"(D) the data necessary for such evaluations are readily available or can readily be developed.

"(2) PRELIMINARY ASSESSMENTS.—For the purpose of establishing priorities under paragraph (1), the Secretary may, with respect to services and procedures utilized in preventing, diagnosing, treating, and clinically managing diseases, disorders, and other health conditions, conduct or support assessments of the extent to which—

"(A) rates of utilization vary among similar populations for particular diseases, disorders, and other health conditions;

"(B) uncertainties exist on the effect of utilizing a particular service or procedure; or

"(C) inappropriate services and procedures are provided.

"(3) RELATIONSHIP WITH MEDICARE PROGRAM.—In establishing priorities under paragraph (1) for research and evaluation, and under section 914(a) of the Public Health Service Act for the agenda under such section, the Secretary shall assure that such priorities appropriately reflect the needs and priorities of the program under title XVIII, as set forth by the Administrator of the Health Care Financing Administration.

"(c) METHODOLOGIES AND CRITERIA FOR EVALUATIONS.—For the purpose of facilitating research under subsection (a), the Secretary shall—

"(1) conduct and support research with respect to the improvement of methodologies and criteria utilized in conducting research with respect to outcomes of health care services and procedures;

"(2) conduct and support reviews and evaluations of existing research findings with respect to such treatment or conditions;

"(3) conduct and support reviews and evaluations of the existing methodologies that use large data bases in conducting such research and shall develop new research methodologies, including data-based methods of advancing knowledge and methodologies that measure clinical and functional status of patients, with respect to such research;

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"(4) provide grants and contracts to research centers, and contracts to other entities, to conduct such research on such treatment or conditions, including research on the appropriate use of prescription drugs;

"(5) conduct and support research and demonstrations on the use of claims data and data on clinical and functional status of patients in determining the outcomes, effectiveness, and appropriateness of such treatment; and

"(6) conduct and support supplementation of existing data bases, including the collection of new information, to enhance data bases for research purposes, and the design and development of new data bases that would be used in outcomes and effectiveness research.

"(d) STANDARDS FOR DATA BASES.—In carrying out this section, the Secretary shall develop—

"(1) uniform definitions of data to be collected and used in describing a patient's clinical and functional status;

"(2) common reporting formats and linkages for such data; and

"(3) standards to assure the security, confidentiality, accuracy, and appropriate maintenance of such data.

Education.

"(e) DISSEMINATION OF RESEARCH FINDINGS AND GUIDELINES.—

"(1) IN GENERAL.—The Secretary shall provide for the dissemination of the findings of research and the guidelines described in subsection (a), and for the education of providers and others in the application of such research findings and guidelines.

"(2) COOPERATIVE EDUCATIONAL ACTIVITIES.—In disseminating findings and guidelines under paragraph (1), and in providing for education under such paragraph, the Secretary shall work with professional associations, medical specialty and subspecialty organizations, and other relevant groups to identify and implement effective means to educate physicians, other providers, consumers, and others in using such findings and guidelines, including training for physician managers within provider organizations.

"(f) EVALUATIONS.—The Secretary shall conduct and support evaluations of the activities carried out under this section to determine the extent to which such activities have had an effect on the practices of physicians in providing medical treatment, the delivery of health care, and the outcomes of health care services and procedures.

"(g) RESEARCH WITH RESPECT TO DISSEMINATION.—The Secretary may conduct or support research with respect to improving methods of disseminating information on the effectiveness and appropriateness of health care services and procedures.

"(h) REPORT TO CONGRESS.—Not later than February 1 of each of the years 1991 and 1992, and of each second year thereafter, the Secretary shall report to the Congress on the progress of the activities under this section during the preceding fiscal year (or preceding 2 fiscal years, as appropriate), including the impact of such activities on medical care (particularly medical care for individuals receiving benefits under title XVIII).

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $50,000,000 for fiscal year 1990;

"(B) $75,000,000 for fiscal year 1991;

"(C) $110,000,000 for fiscal year 1992;

"(D) $148,000,000 for fiscal year 1993; and

"(E) $185,000,000 for fiscal year 1994.

"(2) SPECIFICATIONS.—For the purpose of carrying out this section, for each of the fiscal years 1990 through 1992 an amount equal to two-thirds of the amounts authorized to be appropriated under paragraph (1), and for each of the fiscal years 1993 and 1994 an amount equal to 70 percent of such amounts, are to be appropriated in the following proportions from the following trust funds:

"(A) 60 percent from the Federal Hospital Insurance Trust Fund (established under section 1817).

"(B) 40 percent from the Federal Supplementary Medical Insurance Trust Fund (established under section 1841).

"(3) ALLOCATIONS.—

"(A) For each fiscal year, of the amounts transferred or otherwise appropriated to carry out this section, the Secretary shall reserve appropriate amounts for each of the purposes specified in clauses (i) through (iv) of subparagraph (B).

"(B) The purposes referred to in subparagraph (A) are—

"(i) the development of guidelines, standards, performance measures, and review criteria;

"(ii) research and evaluation;

"(iii) data-base standards and development; and

"(iv) education and information dissemination.".

42 USC 1320b-12 note.

(2) REPORT ON LINKAGE OF PUBLIC AND PRIVATE RESEARCH RELATED DATA.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Congress on the feasibility of linking research-related data described in section 1142(d) of the Social Security Act (as added by paragraph (1) of this subsection) with

similar data collected or maintained by non-Federal entities and by Federal agencies other than the Department of Health and Human Services (including the Departments of Defense and Veterans Affairs and the Office of Personnel Management).

(3) TECHNICAL AND CONFORMING PROVISIONS.—

(A) Effective for fiscal years beginning after fiscal year 1990, subsection (c) of section 1875 of the Social Security Act (42 U.S.C. 1395ll) is repealed.

(B) Section 1862(a)(1)(E) of the Social Security Act (42 U.S.C. 1395y(a)(1)(E)) is amended by striking "section 1875(c)" and inserting "section 1142".

(c) ADDITIONAL AUTHORITIES AND DUTIES WITH RESPECT TO AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—Title IX of the Public Health Service Act, as added by subsection (a) of this section, is amended by adding at the end the following new part:

"PART C—GENERAL PROVISIONS

"SEC. 921. ADVISORY COUNCIL FOR HEALTH CARE POLICY, RESEARCH, AND EVALUATION.

42 USC 299c.

"(a) ESTABLISHMENT.—There is established an advisory council to be known as the National Advisory Council for Health Care Policy, Research, and Evaluation.

"(b) DUTIES.—

"(1) IN GENERAL.—The Council shall advise the Secretary and the Administrator with respect to activities to carry out the purpose of the Agency under section 901(b).

"(2) CERTAIN RECOMMENDATIONS.—Activities of the Council under paragraph (1) shall include making recommendations to the Administrator regarding priorities for a national agenda and strategy for—

"(A) the conduct of research, demonstration projects, and evaluations with respect to health care, including clinical practice and primary care;

"(B) the development and application of appropriate health care technology assessments;

"(C) the development and periodic review and updating of guidelines for clinical practice, standards of quality, performance measures, and medical review criteria with respect to health care; and

"(D) the conduct of research on outcomes of health care services and procedures.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Council shall, in accordance with this subsection, be composed of appointed members and ex officio members. All members of the Council shall be voting members, other than officials designated under paragraph (3)(B) as ex officio members of the Council.

"(2) APPOINTED MEMBERS.—The Secretary shall appoint to the Council 17 appropriately qualified representatives of the public who are not officers or employees of the United States. The Secretary shall ensure that the appointed members of the Council, as a group, are representative of professions and entities concerned with, or affected by, activities under this title and under section 1142 of the Social Security Act. Of such members—

"(A) 8 shall be individuals distinguished in the conduct of research, demonstration projects, and evaluations with respect to health care;

"(B) 3 shall be individuals distinguished in the practice of medicine;

"(C) 2 shall be individuals distinguished in the health professions;

"(D) 2 shall be individuals distinguished in the fields of business, law, ethics, economics, and public policy; and

"(E) 2 shall be individuals representing the interests of consumers of health care.

"(3) EX OFFICIO MEMBERS.—The Secretary shall designate as ex officio members of the Council—

"(A) the Director of the National Institutes of Health, the Director of the Centers for Disease Control, the Administrator of the Health Care Financing Administration, the Assistant Secretary of Defense (Health Affairs), the Chief Medical Officer of the Department of Veterans Affairs; and

"(B) such other Federal officials as the Secretary may consider appropriate.

"(d) SUBCOUNCIL ON OUTCOMES AND GUIDELINES.—

"(1) ESTABLISHMENT.—For the purpose of carrying out the duties specified in subparagraphs (C) and (D) of subsection (b)(2), the Secretary shall establish a subcouncil of the Council and shall designate the membership of the subcouncil in accordance with paragraph (2).

"(2) MEMBERSHIP.—The subcouncil established pursuant to paragraph (1) shall consist of—

"(A) 6 individuals from among the individuals appointed to the Council under subparagraphs (A) through (C) of subsection (c)(2);

"(B) 2 individuals from among the individuals appointed to the Council under subparagraphs (D) and (E) of such subsection; and

"(C) each of the officials designated as ex officio members of the Council under subsection (c)(3)(A).

"(e) TERMS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), members of the Council appointed under subsection (c)(2) shall serve for a term of 3 years.

"(2) STAGGERED ROTATION.—Of the members first appointed to the Council under subsection (c)(2), the Secretary shall appoint 6 members to serve for a term of 3 years, 6 members to serve for a term of 2 years, and 5 members to serve for a term of 1 year.

"(3) SERVICE BEYOND TERM.—A member of the Council appointed under subsection (c)(2) may continue to serve after the expiration of the term of the member until a successor is appointed.

"(f) VACANCIES.—If a member of the Council appointed under subsection (c)(2) does not serve the full term applicable under subsection (e), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(g) CHAIR.—The Administrator shall, from among the members of the Council appointed under subsection (c)(2), designate an individual to serve as the chair of the Council.

"(h) MEETINGS.—The Council shall meet not less than once during each discrete 4-month period and shall otherwise meet at the call of the Administrator or the chair.

"(i) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

"(1) APPOINTED MEMBERS.—Members of the Council appointed under subsection (c)(2) shall receive compensation for each day (including traveltime) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

"(2) EX OFFICIO MEMBERS.—Officials designated under subsection (c)(3) as ex officio members of the Council may not receive compensation for service on the Council in addition to the compensation otherwise received for duties carried out as officers of the United States.

"(j) STAFF.—The Administrator shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

"(k) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the Council shall continue in existence until otherwise provided by law.

"SEC. 922. PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.

42 USC 299c-1.

"(a) REQUIREMENT OF REVIEW.—

"(1) IN GENERAL.—Appropriate technical and scientific peer review shall be conducted with respect to each application for a grant, cooperative agreement, or contract under this title.

"(2) REPORTS TO ADMINISTRATOR.—Each peer review group to which an application is submitted pursuant to paragraph (1) shall report its finding and recommendations respecting the application to the Administrator in such form and in such manner as the Administrator shall require.

"(b) APPROVAL AS PRECONDITION OF AWARDS.—The Administrator may not approve an application described in subsection (a)(1) unless the application is recommended for approval by a peer review group established under subsection (c).

"(c) ESTABLISHMENT OF PEER REVIEW GROUPS.—

"(1) IN GENERAL.—The Administrator shall establish such technical and scientific peer review groups as may be necessary to carry out this section. Such groups shall be established without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and without regard to the provisions of chapter 51, and subchapter III of chapter 53, of such title that relate to classification and pay rates under the General Schedule.

"(2) MEMBERSHIP.—The members of any peer review group established under this section shall be appointed from among individuals who are not officers or employees of the United States and who by virtue of their training or experience are eminently qualified to carry out the duties of such peer review group.

"(3) DURATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, peer review groups established under this section shall continue in existence until otherwise provided by law.

"(d) Categories of Review.—

"(1) In general.—With respect to technical and scientific peer review under this section, such review of applications with respect to research, demonstration projects, or evaluations shall be conducted by different peer review groups than the peer review groups that conduct such review of applications with respect to dissemination activities or the development of research agendas (including conferences, workshops, and meetings).

"(2) Authority for procedural adjustments in certain cases.—In the case of applications described in subsection (a)(1) for financial assistance whose direct costs will not exceed $50,000, the Administrator may make appropriate adjustments in the procedures otherwise established by the Administrator for the conduct of peer review under this section. Such adjustments may be made for the purpose of encouraging the entry of individuals into the field of research, for the purpose of encouraging clinical practice-oriented research, and for such other purposes as the Administrator may determine to be appropriate.

"(e) Regulations.—The Secretary shall issue regulations for the conduct of peer review under this section.

42 USC 299c-2.

"SEC. 923. CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.

"(a) Standards With Respect to Utility of Data.—

"(1) In general.—With respect to data developed or collected by any entity for the purpose described in section 901(b), the Administrator shall, in order to assure the utility, accuracy, and sufficiency of such data for all interested entities, establish guidelines for uniform methods of developing and collecting such data. Such guidelines shall include specifications for the development and collection of data on the outcomes of health care services and procedures.

"(2) Relationship with medicare program.—In any case where guidelines under paragraph (1) may affect the administration of the program under title XVIII of the Social Security Act, the guidelines shall be in the form of recommendations to the Secretary for such program.

"(b) Statistics.—The Administrator shall—

"(1) take such action as may be necessary to assure that statistics developed under this title are of high quality, timely, and comprehensive, as well as specific, standardized, and adequately analyzed and indexed; and

"(2) publish, make available, and disseminate such statistics on as wide a basis as is practicable.

42 USC 299c-3.

"SEC. 924. ADDITIONAL PROVISIONS WITH RESPECT TO GRANTS AND CONTRACTS.

"(a) Requirement of Application.—The Administrator may not, with respect to any program under this title authorizing the provision of grants, cooperative agreements, or contracts, provide any such financial assistance unless an application for the assistance is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Administrator determines to be necessary to carry out the program involved.

"(b) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF FUNDS.—

"(1) IN GENERAL.—Upon the request of an entity receiving a grant, cooperative agreement, or contract under this title, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the entity in carrying out the project involved and, for such purpose, may detail to the entity any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN FUNDS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of the financial assistance involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Administrator. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(c) APPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO CONTRACTS.—Contracts may be entered into under this part without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"SEC. 925. CERTAIN ADMINISTRATIVE AUTHORITIES.

42 USC 299c-4.

"(a) DEPUTY ADMINISTRATOR AND OTHER OFFICERS AND EMPLOYEES.—

"(1) DEPUTY ADMINISTRATOR.—The Administrator may appoint a deputy administrator for the Agency.

"(2) OTHER OFFICERS AND EMPLOYEES.—The Administrator may appoint and fix the compensation of such officers and employees as may be necessary to carry out this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

District of Columbia.

"(b) FACILITIES.—The Secretary, in carrying out this title—

"(1) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or portions of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed 10 years; and

"(2) may acquire, construct, improve, repair, operate, and maintain laboratory, research, and other necessary facilities and equipment, and such other real or personal property (including patents) as the Secretary deems necessary.

Grants.
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"(c) PROVISION OF FINANCIAL ASSISTANCE.—The Administrator, in carrying out this title, may make grants to, and enter into cooperative agreements with, public and nonprofit private entities and individuals, and when appropriate, may enter into contracts with public and private entities and individuals.

"(d) UTILIZATION OF CERTAIN PERSONNEL AND RESOURCES.—

"(1) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Administrator, in carrying out this title, may utilize personnel and equipment, facilities, and other physical resources of the Department of Health and Human Services, permit appropriate (as determined by the Secretary) entities and individuals to utilize the physical resources of such Department, and provide technical assistance and advice.

"(2) OTHER AGENCIES.—The Administrator, in carrying out this title, may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, or of any foreign government, with or without reimbursement of such agencies.

"(e) CONSULTANTS.—The Secretary, in carrying out this title, may secure, from time to time and for such periods as the Administrator deems advisable but in accordance with section 3109 of title 5, United States Code, the assistance and advice of consultants from the United States or abroad.

"(f) EXPERTS.—

"(1) IN GENERAL.—The Secretary may, in carrying out this title, obtain the services of not more than 50 experts or consultants who have appropriate scientific or professional qualifications. Such experts or consultants shall be obtained in accordance with section 3109 of title 5, United States Code, except that the limitation in such section on the duration of service shall not apply.

"(2) TRAVEL EXPENSES.—

"(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless and until the expert agrees in writing to complete the entire period of assignment, or one year, whichever is shorter, unless separated or reassigned for reasons that are beyond the control of the expert or consultant and that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"(g) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Administrator, in carrying out this title, may accept voluntary and uncompensated services.

42 USC 299c-5.

"SEC. 926. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $35,000,000 for fiscal year 1990, $50,000,000 for fiscal year 1991, and $70,000,000 for fiscal year 1992.

"(b) EVALUATIONS.—In addition to amounts available pursuant to subsection (a) for carrying out this title, there shall be made available for such purpose, from the amounts made available pursuant to section 2611 of this Act (relating to evaluations), an amount equal to 40 percent of the maximum amount authorized in such section 2611 to be made available.

42 USC 299c-6.

"SEC. 927. DEFINITIONS.

"For purposes of this title:

"(1) The term 'Administrator' means the Administrator for Health Care Policy and Research.

"(2) The term 'Agency' means the Agency for Health Care Policy and Research.

"(3) The term 'Council' means the National Advisory Council on Health Care Policy, Research, and Evaluation.

"(4) The term 'Director' means the Director of the Office of the Forum for Quality and Effectiveness in Health Care.".

(d) GENERAL PROVISIONS.—

(1) TERMINATIONS.—

42 USC 242c note.

(A) The National Center for Health Services Research and Health Care Technology Assessment is terminated, and part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking section 305.

42 USC 242c.

42 USC 242n note.

(B) The council on health care technology established under section 309 of the Public Health Service Act is terminated, and part A of title III of such Act is amended by striking section 309.

42 USC 242n.

42 USC 299a-2 note.

(2) CONTRACT FOR TEMPORARY ASSISTANCE TO SECRETARY WITH RESPECT TO HEALTH CARE TECHNOLOGY ASSESSMENT.—

(A) The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into a contract—

(i) to develop and recommend to the Secretary priorities for the assessment of specific health care technologies under section 904 of the Public Health Service Act (as added by subsection (a) of this section); and

(ii) to assist the Administrator for Health Care Policy and Research, and the Director of the National Library of Medicine, in establishing the information center required under subsection (c)(1) of such section 904.

(B) In carrying out section 904(c)(1) of the Public Health Service Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall, as appropriate, provide for the transfer to the Secretary of any information and materials developed by the council on health care technology under section 309(c)(1)(A) of the Public Health Service Act (as such section was in effect on the day before the effective date of this section).

(C) The Secretary of Health and Human Services shall ensure that the contract under subparagraph (A) specifies that the activities described in clauses (i) and (ii) of such subparagraph shall be completed not later than 1 year after the date on which the Secretary enters into the contract.

Appropriation authorization.

(D) For the purpose of carrying out the contract under subparagraph (A), there is authorized to be appropriated $300,000 for fiscal year 1990.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 304.—Section 304 of the Public Health Service Act (42 U.S.C. 242b) is amended—

(A) in subsection (a)—

(i) by striking paragraphs (1) and (2); and

(ii) by striking the paragraph designation in paragraph (3);

(B) in subsection (a) (as amended by subparagraph (A) of this paragraph)—

(i) by striking "the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Agency for Health Care Policy and Research"; and

(ii) by striking "in sections 305, 306, and 309" and inserting "in section 306 and in title IX";

(C) in subsection (b), in the matter preceding paragraph (1), by striking "subsection (a)," and inserting "subsection (a) and section 306,"; and

(D) in subsection (c)—

(i) in paragraph (1), in the second sentence, by striking "the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Agency for Health Care Policy and Research"; and

(ii) in paragraph (2), by striking "the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Agency for Health Care Policy and Research".

(2) SECTION 306.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(A) in subsection (a), by adding at the end the following new sentence: "The Secretary, acting through the Center, shall conduct and support statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.";

(B) in subsection (b), in the matter preceding paragraph (1), by striking "section 304(a)," and inserting "subsection (a),"; and

(C) by adding at the end the following new subsection:

Appropriation authorization. "(m) For health statistical and epidemiological activities undertaken or supported under this section, there are authorized to be appropriated $55,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(3) SECTION 307.—Section 307(a) of the Public Health Service Act (42 U.S.C. 242l(a)) is amended by striking "sections 304, 305, 306, and 309" and inserting "section 306 and by title IX".

(4) SECTION 308.—Section 308 of the Public Health Service Act (42 U.S.C. 242m) is amended—

(A) in the section heading, by striking "SECTIONS" and all that follows and inserting the following: "EFFECTIVENESS, EFFICIENCY, AND QUALITY OF HEALTH SERVICES";

(B) in subsection (a)—

(i) in paragraph (1)(A)(i), by striking "sections 304 through 307 and section 309" and inserting "sections 304, 306, and 307 and title IX"; and

(ii) in paragraph (2), by striking "the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Agency for Health Care Policy and Research";

(C) in subsection (b)—

(i) in paragraph (1), by striking "sections 304, 305, 306, 307, and 309" and inserting "section 304, 306, or 307";

(ii) in subparagraph (A) of paragraph (2)—

(I) in the first sentence, by striking "under section 304 or 305," and inserting "under section 306";

(II) by striking the second sentence; and

(III) by amending the last sentence to read as follows: "The Director of the National Center for Health Statistics shall establish such peer review groups as may be necessary to provide for such an evaluation of each such application.";

(iii) in subparagraph (B) of paragraph (2), by striking "the Director involved," and inserting "the Director of the National Center for Health Statistics,";

(iv) in subparagraph (C) of paragraph (2), by striking "the Directors," and inserting "the Director of the National Center for Health Statistics,"; and

(v) in paragraph (3), in the first sentence—

(I) by striking "section 304, 305, or 306" the first place such term appears and inserting "section 306"; and

(II) by striking "section 304, 305, or 306" the second place such term appears and inserting "any of such sections";

(D) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking "section 304, 305, 306, 307, or 309" and inserting "section 304, 306, or 307";

(ii) in paragraph (1), by striking "in other form, and" and inserting "in other form." and by striking the paragraph designation; and

(iii) by striking paragraph (2);

(E) in subsection (e)—

(i) in paragraph (1), by striking "section 304, 305, 306, 307, or 309" and inserting "section 304, 306, or 307"; and

(ii) in paragraph (2), in the matter preceding subparagraph (A), by striking "section 304, 305, 306, 307, or 309" and inserting "section 304, 306, or 307";

(F) in subsection (f), by striking "section 304, 305, 306, or 309" and inserting "section 304 or 306";

(G) in subsection (g)—

(i) in paragraph (1), by striking the matter after and below subparagraph (C); and

(ii) in paragraph (2), by striking "sections 304, 305, 306, and 309" and inserting "sections 304 and 306";

(H) in subsection (h)(1)—

(i) by striking "section 304, 305, 306, or 309" the first place such term appears and inserting "section 306"; and

(ii) by striking "section 304, 305, 306, or 309" the second place such term appears and inserting "any of such sections"; and

(I) by striking subsection (i).

Indians.

(5) SECTION 330.—Section 330(e)(3)(G)(i) of the Public Health Service Act (42 U.S.C. 254c(e)(3)(G)(i)) is amended by inserting after "(i)" the following: "except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act,".

42 USC 11137 note.

(6) SECTION 402.—Section 402 of the Public Health Service Amendments of 1987 is amended—

(A) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

State and local governments. 42 USC 11111. 42 USC 11115.

"(c) Such Act is amended in section 411(c)(2) by striking subparagraph (B), by striking 'subparagraphs (A) and (B)' in subparagraph (C), and by redesignating subparagraph (C) as subparagraph (B). Such Act is amended in section 415(a) by inserting before the period at the end the following: 'or as preempting or overriding any State law which provides incentives, immunities, or protection for those engaged in a professional review action that is in addition to or greater than that provided by this part'"; and

42 USC 11137 note.

(B) in subsection (d)(1) (as so redesignated), by striking "subsection (a)" and inserting "subsections (a) and (c)".

(7) SECTION 487.—Section 487(d)(3)(B) of the Public Health Service Act (42 U.S.C. 288(d)(3)(B)) is amended by striking "National Center" and all that follows through "Assessment" and inserting "Agency for Health Care Policy and Research".

42 USC 299 note.

(f) TRANSITIONAL AND SAVINGS PROVISIONS.—

(1) TRANSFER OF PERSONNEL, ASSETS, AND LIABILITIES.—Personnel of the Department of Health and Human Services employed on the date of the enactment of this Act in connection with the functions vested in the Administrator for Health Care Policy and Research pursuant to the amendments made by this section, and assets, property, contracts, liabilities, records, unexpended balances of appropriations, authorizations, allocations, and other funds, of such Department arising from or employed, held, used, or available on such date, or to be made available after such date, in connection with such functions shall be transferred to the Administrator for appropriate allocation. Unexpended funds transferred under this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(2) SAVINGS PROVISIONS.—With respect to functions vested in the Administrator for Health Care Policy and Research pursuant to the amendments made by this section, all orders, rules, regulations, grants, contracts, certificates, licenses, privileges, and other determinations, actions, or official documents, of the Department of Health and Human Services that have been issued, made, granted, or allowed to become effective in the performance of such functions, and that are effective on the date of the enactment of this Act, shall continue in effect according to their terms unless changed pursuant to law.

SEC. 6104. REDUCTION IN PAYMENTS FOR CERTAIN PROCEDURES.

(a) IN GENERAL.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(14)(A) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during the 9-month period beginning on April 1, 1990, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for 1989 reduced by 15 percent or, if less, ⅓ of the percent (if any) by which the prevailing charge otherwise applied in the locality in 1989 exceeds the locally-adjusted reduced prevailing amount (as determined under subparagraph (B)(i)) for the service.

"(B) For purposes of this paragraph:

"(i) The 'locally-adjusted reduced prevailing amount' for a locality for a physicians' service is equal to the product of—

"(I) the reduced national weighted average prevailing charge for the service (specified under clause (ii)), and

"(II) the adjustment factor (specified under clause (iii)) for the locality.

"(ii) The 'reduced national weighted average prevailing charge' for a physicians' service is equal to the national weighted average prevailing charge for the service (specified in subparagraph (C)(ii)) reduced by the percentage change (specified in subparagraph (C)(iii)) for the service.

"(iii) The 'adjustment factor', for a physicians' service for a locality, is the sum of—

"(I) the practice expense ratio for the service (specified in Table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i)), multiplied by the geographic practice cost index value (specified in subparagraph (C)(iv)) for the locality, and

"(II) 1 minus the practice expense ratio.

"(C) For purposes of this paragraph:

"(i) The physicians' services specified in this clause are the physicians' services specified in Table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress, which specification is of physicians' services that have been identified as overvalued by at least 10 percent based on a comparison of payments for such services under a resource-based relative value scale and of the national average prevailing charges under this part.

"(ii) The 'national weighted average prevailing charge' specified in this clause, for a physicians' service specified in clause (i), is the national weighted average prevailing charge for the service in 1989 as determined by the Secretary using the best data available.

"(iii) The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in Table #2 in the Joint Explanatory Statement referred to in clause (i).

"(iv) The geographic practice cost index value specified in this clause for a locality is such value specified for the locality in Table #3 in the Joint Explanatory Statement referred to in clause (i).

"(D) In the case of a reduction in the prevailing charge for a physicians' service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of such reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(b) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act is amended— 42 USC 1395u.

(1) in clause (ii)(II), by inserting "or (b)(14)(A)" after "(b)(10)(A)", and

(2) in clause (iii)(II), by striking "or (b)(11)(C)(i)" and inserting "(b)(11)(C)(i), or (b)(14)(A)".

SEC. 6105. REDUCTION IN PAYMENTS FOR RADIOLOGY SERVICES.

(a) FEE SCHEDULES FOR RADIOLOGIST SERVICES REDUCED.—Section 1834(b)(4) of the Social Security Act (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) 1990 FEE SCHEDULES.—For radiologist services (other than portable X-ray services) furnished under this part during 1990, after March 31 of such year, the conversion factors used under this subsection shall be 96 percent of the conversion factors that applied under this subsection as of December 31, 1989.".

42 USC 1395m note.

(b) SPECIAL RULE FOR NUCLEAR MEDICINE PHYSICIANS.—In applying section 1834(b) of the Social Security Act with respect to nuclear medicine services furnished by a physician for whom nuclear medicine services account for at least 80 percent of the total amount of charges made under part B of title XVIII of the Social Security Act—

(1) during 1990, after April 1, 1990, there shall be substituted for the fee schedule otherwise applicable a fee schedule based ⅓ on the fee schedule computed under such section (without regard to this subsection) and ⅔ on 101 percent of the 1988 prevailing charge for such services; and

(2) during 1991, there shall be substituted for the fee schedule otherwise applicable a fee schedule based ⅔ on the fee schedule computed under such section (without regard to this subsection) and ⅓ on 101 percent of the 1988 prevailing charge for such services.

42 USC 1395m note.

(c) INTERVENTIONAL RADIOLOGISTS.—In applying section 1834(b) of the Social Security Act to radiologist services furnished in 1990, the exception for "split billing" set forth at section 5262J of the Medicare Carriers Manual shall apply to services furnished in 1990 in the same manner and to the same extent as the exception applied to services furnished in 1989.

SEC. 6106. ANESTHESIA SERVICES.

(a) COUNTING ACTUAL TIME UNITS FOR ANESTHESIA SERVICES AND CODIFICATION OF PREVIOUS AUTHORITY.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

Regulations.

"(q)(1) The Secretary, in consultation with groups representing physicians who furnish anesthesia services, shall establish by regulation a relative value guide for use in all carrier localities in making payment for physician anesthesia services furnished under this part. Such guide shall be designed so as to result in expenditures under this title for such services in an amount that would not exceed the amount of such expenditures which would otherwise occur.

"(2) For purposes of payment for anesthesia services (whether furnished by physicians or by certified registered nurse anesthetists) under this part, the time units shall be counted based on actual time rather than rounded to full time units.".

42 USC 1395u note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1990.

SEC. 6107. DELAY IN UPDATE AND REDUCTION IN PERCENTAGE INCREASE IN THE MEDICARE ECONOMIC INDEX.

(a) DELAYING UPDATES UNTIL APRIL 1.—

42 USC 1395u note.

(1) IN GENERAL.—Subject to the amendments made by this section, any increase or adjustment in customary, prevailing, or reasonable charges, fee schedule amounts, maximum allowable actual charges, and other limits on actual charges with respect to physicians' services and other items and services described in paragraph (2) under part B of title XVIII of the Social Security Act which would otherwise occur as of January 1, 1990, shall be delayed so as to occur as of April 1, 1990, and, notwithstanding any other provision of law, the amount of payment under such part for such items and services which are furnished during the period beginning on January 1, 1990, and ending on March 31, 1990, shall be determined on the same basis as the amount of payment for such services furnished on December 31, 1989.

(2) ITEMS AND SERVICES COVERED.—The items and services described in this paragraph are items and services (other than ambulance services and clinical diagnostic laboratory services) for which payment is made under part B of title XVIII of the Social Security Act on the basis of a reasonable charge or a fee schedule.

(3) EXTENSION OF PARTICIPATION AGREEMENTS AND RELATED PROVISIONS.—Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each participation agreement in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall remain in effect for the 3-month period beginning on January 1, 1990;

(B) the effective period for such agreements under such section entered into for 1990 shall be the 9-month period beginning on April 1, 1990, and the Secretary of Health and Human Services shall provide an opportunity for physicians and suppliers to enroll as participating physicians and suppliers before April 1, 1990;

(C) instead of publishing, under section 1842(h)(4) of the Social Security Act, at the beginning of 1990, directories of participating physicians and suppliers for 1990, the Secretary shall provide for such publication, at the beginning of the 9-month period beginning on April 1, 1990, of such directories of participating physicians and suppliers for such period; and

(D) instead of providing to nonparticipating physicians under section 1842(b)(3)(G) of the Social Security Act at the beginning of 1990, a list of maximum allowable actual charges for 1990, the Secretary shall provide, at the beginning of the 9-month period beginning on April 1, 1990, such physicians such a list for such 9-month period.

An agreement with a participating physician or supplier described in subparagraph (A) in effect on December 31, 1989, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician or supplier requests on or before December 31, 1989, that the agreement be terminated.

(b) Percentage Increase in MEI for 1990.—Section 1842(b)(4)(E) of the Social Security Act (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(iv) For purposes of this part for items and services furnished in 1990, after March 31, 1990, the percentage increase in the MEI is—

"(I) 0 percent for radiology services, for anesthesia services, and for other services specified in Table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress,

"(II) 2 percent for other services (other than primary care services), and

"(III) such percentage increase in the MEI (as defined in subsection (i)(3)) as would be otherwise determined for primary care services (as defined in subsection (i)(4)).".

SEC. 6108. MISCELLANEOUS PROVISIONS RELATING TO PAYMENT FOR PHYSICIANS' SERVICES.

(a) Customary Charge for New Physicians.—

(1) Phase-in to prevailing charge level.—Section 1842(b)(4)(F) of the Social Security Act (42 U.S.C. 1395u(b)(4)(F)) is amended—

(A) by inserting "furnished during a calendar year" after "physicians' services", and

(B) by adding at the end the following: "For the first calendar year during which the preceding sentence no longer applies, the Secretary shall set the customary charge at a level no higher than 85 percent of the prevailing charge for the service.".

42 USC 1395u note.

(2) Effective date.—(A) Subject to subparagraph (B), the amendments made by paragraph (1) apply to services furnished in 1990 which were subject to the first sentence of section 1842(b)(4)(F) of the Social Security Act in 1989.

(B) The amendments made by paragraph (1) shall not apply to services furnished in 1990 before April 1, 1990. With respect to physicians' services furnished during 1990 on and after April 1, such amendments shall be applied as though any reference, in the matter inserted by such amendments, to the "first calendar year during which the preceding sentence no longer applies" were deemed a reference to the remainder of 1990.

(b) Limitation on Amounts for Certain Services Furnished by More Than One Specialty.—

(1) In general.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)), as amended by section 6104(a) of this subtitle, is amended by adding at the end the following:

"(15)(A) In determining the reasonable charge for surgery, radiology, and diagnostic physicians' services which the Secretary shall designate (based on their high volume of expenditures under this part) and for which the prevailing charge (but for this paragraph) differs by physician specialty, the prevailing charge for such a service may not exceed the prevailing charge or fee schedule amount for that specialty of physicians that furnish the service most frequently nationally.

"(B) In the case of a reduction in the prevailing charge for a physician's service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part, after the effective date of the reduction, the physician's actual charge is subject to a limit under subsection (j)(1)(D).".

(2) SPECIAL LIMITS ON ACTUAL CHARGES.—Section 1842(j)(1)(D) of such Act (42 U.S.C. 1395u(j)(1)(D)) is amended—

(A) in clause (ii)(IV), by inserting "or (b)(15)(A)" before the comma at the end, and

(B) in clause (iii)(II), by striking "or (b)(14)(A)" and inserting "(b)(14)(A), or (b)(15)(A)".

(3) EFFECTIVE DATE.—The amendments made by this subsection apply to procedures performed after March 31, 1990. 42 USC 1395u note.

SEC. 6109. WAIVER OF LIABILITY LIMITING RECOUPMENT IN CERTAIN CASES.

42 USC 1395gg note.

In the case where more than the correct amount may have been paid to a physician or individual under part B of title XVIII of the Social Security Act with respect to services furnished during the period beginning on July 1, 1985, and ending on March 31, 1986, as a result of a carrier's establishing statewide fees for certain procedure codes while the carrier was in the process of implementing the national common procedure coding system of the Health Care Financing Administration, the provisions of section 1870(c) of the Social Security Act shall apply, without the need for affirmative action by such a physician or individual, so as to prevent any recoupment, or other decrease in subsequent payments, to the physician or individual. The previous sentence shall apply to claims for items and services which were reopened by carriers on or after July 31, 1987.

SEC. 6110. REDUCTION IN CAPITAL PAYMENTS FOR OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S) of the Social Security Act (42 U.S.C. 1395x(v)(1)(S)) is amended—

(1) by inserting "(i)" after "(S)", and

(2) by adding at the end the following new clause:

"(ii)(I) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of outpatient hospital services, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1990.

"(II) Subclause (I) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in section 1886(d)(5)(D)(iii)).

"(III) In applying subclause (I) to services for which payment is made on the basis of a blend amount under section 1833(i)(3)(A)(ii) or 1833(n)(1)(A)(ii), capital-related costs reflected in the amounts described in sections 1833(i)(3)(B)(i)(I) and 1833(n)(1)(B)(i)(I), respectively, shall be reduced in accordance with such subclause.".

SEC. 6111. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) REDUCTION OF LIMITATION AMOUNT ON PAYMENT AMOUNT.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

(1) in subparagraphs (B) and (C) of paragraph (1), by striking "during the period" and all that follows through "established on a nationwide basis" and inserting "on or after July 1, 1984";

(2) in paragraph (4)(B)(i), by striking "or" at the end;

(3) in paragraph (4)(B)(ii)—

(A) by striking "and so long as a fee schedule for the test has not been established on a nationwide basis,",

(B) by inserting "and before January 1, 1990," after "March 31, 1988,", and

(C) by striking the period at the end and inserting ", and"; and

(4) by adding at the end of paragraph (4)(B) the following new clause:

"(iii) after December 31, 1989, is equal to 93 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(b) RESTRICTION ON PAYMENT TO REFERRING LABORATORY.—

(1) IN GENERAL.—Section 1833(h)(5)(A)(ii) of such Act (42 U.S.C. 1395l(h)(5)(A)(ii)) is amended by striking "referring laboratory, and" and inserting "referring laboratory but only if—

Rural areas.

"(I) the referring laboratory is located in, or is part of, a rural hospital,

"(II) the referring laboratory is a wholly-owned subsidiary of the entity performing such test, the referring laboratory wholly owns the entity performing such test, or both the referring laboratory and the entity performing such test are wholly-owned by a third entity, or

"(III) not more than 30 percent of the clinical diagnostic laboratory tests for which such referring laboratory submits bills or requests for payment in any year are performed by another laboratory, and".

42 USC 1395*l* note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to clinical diagnostic laboratory tests performed on or after January 1, 1990.

SEC. 6112. DURABLE MEDICAL EQUIPMENT.

(a) DELAY IN AND REDUCTION OF UPDATE FOR 1990.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2)(B)(i) and (3)(B)(i) of section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) are each amended by striking "in 1989" and inserting "in 1989 and in 1990".

(2) MISCELLANEOUS DEVICES AND ITEMS AND OTHER COVERED ITEMS.—Paragraph (8)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and 1990", and

(B) in subclause (II), by striking "1990, 1991," and inserting "1991".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Paragraph (9)(A)(ii) of such section is amended—

(A) in subclause (I), by striking "1989" and inserting "1989 and 1990", and

(B) in subclause (II), by striking "1990, 1991," and inserting "1991".

(4) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in paragraph (7)(A)(i), by striking "this subparagraph" and inserting "this clause";

(B) in paragraph (7)(B)(i), by inserting "in" after "rental of the item"; and

(C) in paragraph (7)(B)(ii), by striking "the payment amount" and all that follows and inserting "clause (i) shall apply in the same manner as it applies to items furnished during 1989.".

(b) RENTAL PAYMENTS FOR ENTERAL AND PARENTERAL PUMPS.—

42 USC 1395m note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any monthly rental payment under part B of title XVIII of the Social Security Act for an enteral or parenteral pump furnished on or after April 1, 1990, shall be determined in accordance with the methodology under which monthly rental payments for such pumps were determined during 1989.

(2) CAP ON RENTAL PAYMENTS, SERVICING, AND REPAIRS.—In the case of an enteral or parenteral pump described in paragraph (1) that is furnished on a rental basis during a period of medical need—

(A) monthly rental payments shall not be made under part B of title XVIII of the Social Security Act for more than 15 months during such period, and

(B) after monthly rental payments have been made for 15 months during such period, payment under such part shall be made for maintenance and servicing of the pump in such amounts as the Secretary of Health and Human Services determines to be reasonable and necessary to ensure the proper operation of the pump.

(c) REDUCTION IN FEE SCHEDULES FOR SEAT-LIFT CHAIRS AND TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS.—Paragraph (1) of such section 1834(a) is amended by adding at the end the following new subparagraph:

42 USC 1395m.

"(D) REDUCTION IN FEE SCHEDULES FOR CERTAIN ITEMS.—With respect to a seat-lift chair or transcutaneous electrical nerve stimulator furnished on or after April 1, 1990, the Secretary shall reduce the payment amount applied under subparagraph (B)(ii) for such an item by 15 percent.".

(d) TREATMENT OF POWER DRIVEN WHEELCHAIRS.—

(1) AS ROUTINELY PURCHASED.—Section 1834(a)(2)(A) of the Social Security Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (i),

(B) by adding "or" at the end of clause (ii), and

(C) by inserting after clause (ii) the following new clause:

"(iii) which is a power-driven wheelchair (other than a customized wheelchair that is classified as a customized item under paragraph (4) pursuant to criteria specified by the Secretary),".

Regulations. 42 USC 1395m note.

(2) AS CUSTOMIZED ITEM.—The Secretary of Health and Human Services shall by regulation specify criteria to be used by carriers in making determinations on a case-by-case basis as whether to classify power-driven wheelchairs as a customized item (as described in section 1834(a)(4) of the Social Security Act) for purposes of reimbursement under title XVIII of such Act.

(e) OSTOMY SUPPLIES AS PART OF HOME HEALTH SERVICES.—

(1) SPECIFIC INCLUSION IN HOME HEALTH SERVICES.—Section 1861(m)(5) of the Social Security Act (42 U.S.C. 1395x(m)(5)) is amended to read as follows:

"(5) medical supplies (including catheters, catheter supplies, ostomy bags, and supplies related to ostomy care, but excluding drugs and biologicals) and durable medical equipment while under such a plan;".

(2) Exclusion from covered items.—Section 1834(a)(13) of such Act (42 U.S.C. 1395m(a)(13)) is amended by inserting after "intraocular lenses" the following: "or medical supplies (including catheters, catheter supplies, ostomy bags, and supplies related to ostomy care) furnished by a home health agency under section 1861(m)(5)".

(3) Requiring provision as part of home health services.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (N),

(B) by striking the period at the end of subparagraph (O) and inserting "; and",

(C) and by inserting after subparagraph (O) the following new subparagraph:

"(P) in the case of home health agencies which provide home health services to individuals entitled to benefits under this title who require ostomy supplies (described in section 1861(m)(5)), to offer to furnish such supplies to such an individual as part of their furnishing of home health services.".

42 USC 1395m note.

(4) Effective date.—The amendments made by this subsection shall apply with respect to items furnished on or after January 1, 1990.

SEC. 6113. MENTAL HEALTH SERVICES.

(a) Eliminating Restriction on Psychologists' Services to Services Furnished at Community Mental Health Centers.—Section 1861(ii) of the Social Security Act (42 U.S.C. 1395x(ii)) is amended by striking "on-site at a community mental health center" and all that follows through "because of similar circumstances of the individual,".

(b) Clinical Social Workers.—

(1) Coverage of services.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (L);

(B) by adding "and" at the end of subparagraph (M); and

(C) by adding at the end the following new subparagraph:

"(N) clinical social worker services (as defined in subsection (hh)(2));".

(2) Definitions.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2)(H)(ii), by striking "(hh)" and inserting "(hh)(2)", and

(B) in subsection (hh)—

(i) by amending the heading to read as follows:

"Clinical Social Worker; Clinical Social Worker Services",

(ii) by redesignating clauses (i) and (ii) of paragraph (3)(B) as subclauses (I) and (II), respectively,

(iii) by redesignating subparagraphs (A) and (B) of paragraph (3) as clauses (i) and (ii), respectively,

(iv) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(v) by striking "(hh)" and inserting "(hh)(1)", and

(vi) by adding at the end the following new paragraph:

"(2) The term 'clinical social worker services' means services performed by a clinical social worker (as defined in paragraph (1)) for the diagnosis and treatment of mental illnesses (other than services furnished to an inpatient of a hospital and other than services furnished to an inpatient of a skilled nursing facility which the facility is required to provide as a requirement for participation) which the clinical social worker is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service.".

(3) PAYMENT BASIS.—Section 1833 of such Act (42 U.S.C. 1395l) is amended—

(A) by inserting after clause (E) of subsection (a)(1) the following new clause: "(F) with respect to clinical social worker services under section 1861(s)(2)(N), the amounts paid shall be 80 percent of the lesser of (i) the actual charge for the services or (ii) 75 percent of the amount determined for payment of a psychologist under clause (L),"; and

(B) in subsection (p)—

(i) by striking "1861(s)(2)(L) and" and by inserting "1861(s)(2)(L),", and

(ii) by inserting "and in the case of clinical social worker services for which payment may be made under this part only pursuant to section 1861(s)(2)(N)," after "1861(s)(2)(M),".

(c) DEVELOPMENT OF CRITERIA REGARDING CONSULTATION WITH A PHYSICIAN.—The Secretary of Health and Human Services shall, taking into consideration concerns for patient confidentiality, develop criteria with respect to payment for qualified psychologist services for which payment may be made directly to the psychologist under part B of title XVIII of the Social Security Act under which such a psychologist must agree to consult with a patient's attending physician in accordance with such criteria.

42 USC 1395l note.

(d) ELIMINATING DOLLAR LIMITATION ON MENTAL HEALTH SERVICES.—Section 1833(d)(1) of the Social Security Act (42 U.S.C. 1395l(d)(1)) is amended by striking "whichever" and all that follows in the first sentence and inserting "62½ percent of such expenses.".

(e) EFFECTIVE DATE.—The amendments made by this section, and the provisions of subsection (c), shall apply to services furnished on or after July 1, 1990, and the amendments made by subsection (d) shall apply to expenses incurred in a year beginning with 1990.

42 USC 1395l note.

SEC. 6114. COVERAGE OF NURSE PRACTITIONER SERVICES IN NURSING FACILITIES.

(a) SERVICES COVERED.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J), and

(2) in subparagraph (K)—

(A) in clause (i), by striking "and" at the end,

(B) in clause (ii), by striking "to such services" and inserting "to services described in clause (i) or (ii)",

(C) by redesignating clause (ii) as clause (iii), and

(D) by inserting after clause (i) the following new clause:

"(ii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner (as defined in subsection (aa)(3)) working in collaboration (as defined in subsection (aa)(4)) with a physician (as defined in subsection (r)(1)) in a skilled nursing facility or nursing facility (as defined in section 1919(a)) which the nurse practitioner is legally authorized to perform by the State in which the services are performed, and".

(b) DETERMINATION OF PAYMENT AMOUNT.—Section 1842(b)(12)(A) of such Act (42 U.S.C. 1395u(b)(12)(A)) is amended by striking "physician assistant acting under the supervision of a physician" and inserting "physician assistants and nurse practitioners".

(c) PAYMENT TO EMPLOYER; PAYMENT FOR ROUTINE VISITS BY MEMBERS OF A TEAM.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended—

(1) in clause (C) of the first sentence of paragraph (6), by inserting "or nurse practitioner" after "physician assistant", and

(2) by adding at the end of paragraph (2), the following new subparagraph:

"(C) In the case of residents of nursing facilities who receive services described in clause (i) or (ii) of section 1861(s)(2)(K) performed by a member of a team, the Secretary shall instruct carriers to develop mechanisms which permit routine payment under this part for up to 1.5 visits per month per resident. In the previous sentence, the term 'team' refers to a physician and includes a physician assistant acting under the supervision of the physician or a nurse practitioner working in collaboration with that physician, or both.".

(d) DEFINITION OF COLLABORATION.—Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended by adding at the end the following new paragraph:

"(4) The term 'collaboration' means a process in which a nurse practitioner works with a physician to deliver health care services within the scope of the practitioner's professional expertise, with medical direction and appropriate supervision as provided for in jointly developed guidelines or other mechanisms as defined by the law of the State in which the services are performed.".

42 USC 1395u note.

(e) STATE DEMONSTRATION PROJECTS ON APPLICATION OF LIMITATION ON VISITS PER MONTH PER RESIDENT ON AGGREGATE BASIS FOR A TEAM.—The Secretary of Health and Human Services shall provide for at least 1 demonstration project under which, in the application of section 1842(b)(2)(C) of the Social Security Act (as added by subsection (c)(2) of this section) in one or more States, the limitation on the number of visits per month per resident would be applied on an average basis over the aggregate total of residents receiving services from members of the team.

42 USC 1395u note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after April 1, 1990.

SEC. 6115. COVERAGE OF SCREENING PAP SMEARS.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 6003(g)(3)(A) of this subtitle, is amended—

(1) in subsection (s)—

(A) by striking "and" at the end of paragraph (12),

(B) by striking the period at the end of paragraph (13) and inserting "; and",

(C) by redesignating paragraphs (14) and (15) as paragraphs (15) and (16), respectively, and

(D) by inserting after paragraph (13) the following new paragraph;

"(14) screening pap smear."; and

(2) by adding at the end the following new subsection:

"Screening Pap Smear

"(nn) The term 'screening pap smear' means a diagnostic laboratory test consisting of a routine exfoliative cytology test (Papanicolaou test) provided to a woman for the purpose of early detection of cervical cancer and includes a physician's interpretation of the results of the test, if the individual involved has not had such a test during the preceding 3 years (or such shorter period as the Secretary may specify in the case of a woman who is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary)).".

(b) REVISION OF EXCLUSION GROUNDS.—Section 1862(a)(1)(F) of such Act (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting before the semicolon at the end the following: ", and, in the case of screening pap smear, which is performed more frequently than is provided under 1861(nn)".

(c) CONFORMING AMENDMENTS.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (14) and (15)" and inserting "paragraphs (15) and (16)". 42 USC 1396a.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to screening pap smears performed on or after July 1, 1990. 42 USC 1395x note.

SEC. 6116. COVERAGE UNDER, AND PAYMENT FOR, OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES UNDER PART B.

(a) COVERAGE.—

(1) Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)), as added by section 6003(g)(3)(A) of this subtitle, is amended by adding at the end the following:

"(3) The term 'outpatient rural primary care hospital services' means medical and other health services furnished by a rural primary care hospital.".

(2) Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) is amended—

(A) in subparagraph (F), by striking "and" at the end,

(B) in subparagraph (G) by striking the period at the end and inserting "; and", and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) outpatient rural primary care hospital services (as defined in section 1861(mm)(3)).".

(b) PAYMENT.—

(1) Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended—

(A) in paragraph (2), in the matter before subparagraph (A), by striking "and (G)" and inserting "(G), and (H)",

(B) in paragraph (4), by striking "and" at the end,

(C) in paragraph (5), by striking the period at the end and inserting "; and", and

(D) by inserting after paragraph (5) the following new paragraph:

"(6) in the case of outpatient rural primary care hospital services, the amounts described in section 1834(g).".

(2) Section 1834 of such Act (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(g) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

"(1) IN GENERAL.—The amount of payment for outpatient rural primary care hospital services provided during a year before 1993 in a rural primary care hospital under this part shall be determined by one of the 2 following methods, as elected by the rural primary care hospital:

"(A) COST-BASED FACILITY FEE PLUS PROFESSIONAL CHARGES.—

"(i) FACILITY FEE.—With respect to facility services, not including any services for which payment may be made under clause (ii), there shall be paid amounts equal to the amounts described in section 1833(a)(2)(B) (describing amounts paid for hospital outpatient services).

"(ii) REASONABLE CHARGES FOR PROFESSIONAL SERVICES.—In electing treatment under this subparagraph, payment for professional medical services otherwise included within outpatient rural primary care hospital services shall be made under such other provisions of this part as would apply to payment for such services if they were not included in outpatient rural primary care hospital services.

"(B) ALL-INCLUSIVE RATE.—With respect to both facility services and professional medical services, there shall be paid amounts equal to the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, less the amount the hospital may charge as described in clause (i) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A) and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion) exceed 80 percent of such costs.

"(2) DEVELOPMENT AND IMPLEMENTATION OF ALL INCLUSIVE, PROSPECTIVE PAYMENT SYSTEM.— Not later than January 1, 1993, the Secretary shall develop and implement a prospective payment system for determining payments under this part for outpatient rural primary care hospital services using a methodology that includes all costs in providing all such services (including related professional medical services) and that determines the payment amount for such services on a prospective basis.".

Subpart B—Technical and Miscellaneous Provisions

SEC. 6131. MODIFICATION OF PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) PERMITTING ADDITIONAL INSERTS.—

(1) IN GENERAL.—Section 1833(o) of the Social Security Act (42 U.S.C. 1395l(o)) is amended—

(A) by amending subparagraph (A) of paragraph (1) to read as follows:

"(A) no payment may be made under this part, with respect to any individual for any year, for the furnishing of—

"(i) more than one pair of custom molded shoes (including inserts provided with such shoes) and 2 additional pairs of inserts for such shoes, or

"(ii) more than one pair of extra-depth shoes (not including inserts provided with such shoes) and 3 pairs of inserts for such shoes, and";

(B) in paragraphs (1)(B) and (2)(A), by striking "limit" and inserting "limits";

(C) in the second sentence of paragraph (1), by inserting "(or inserts)" after "shoes" each place it appears;

(D) by amending clause (i) of paragraph (2)(A) to read as follows:

"(i) for the furnishing of—

"(I) one pair of custom molded shoes (including any inserts that are provided initially with the shoes) is $300, and

"(II) any additional pair of inserts with respect to such shoes is $50; and"; and

(E) in paragraph (2)(A)(ii)(II), by inserting "any pairs of" after "$50 for".

(2) CONFORMING AMENDMENT.—Section 1861(s)(12) of such Act (42 U.S.C. 1395x(s)(12)) is amended by inserting "with inserts" after "custom molded shoes".

(b) PERMITTING SUBSTITUTION OF SHOE MODIFICATIONS FOR INSERTS.—Section 1833(o)(2) of such Act is amended by adding at the end the following new subparagraph:

"(D) In accordance with procedures established by the Secretary, an individual entitled to benefits with respect to shoes described in section 1861(s)(12) may substitute modification of such shoes instead of obtaining one (or more, as specified by the Secretary) pairs of inserts (other than the original pair of inserts with respect to such shoes). In such case, the Secretary shall substitute, for the limits established under subparagraph (A), such limits as the Secretary estimates will assure that there is no net increase in expenditures under this subsection as a result of this subparagraph.".

(c) EFFECTIVE DATE.—

42 USC 1395l note.

(1) The amendments made by this section shall apply with respect to therapeutic shoes and inserts furnished on or after July 1, 1989.

(2) In applying the amendments made by this section, the increase under subparagraph (C) of section 1833(o)(2) of the Social Security Act shall apply to the dollar amounts specified under subparagraph (A) of such section (as amended by this section) in the same manner as the increase would have applied to the dollar amounts specified under subparagraph (A) of such section (as in effect before the date of the enactment of this Act).

SEC. 6132. PAYMENTS TO CERTIFIED REGISTERED ANESTHETISTS.

42 USC 1395k note.

(a) EXTENSION AND EXPANSION OF CRNA PASS-THROUGH.—Section 9320(k) of the Omnibus Budget Reconciliation Act of 1986, as added by section 608(c)(2) of the Family Support Act of 1988, is amended—

(1) by striking "250" each place it appears and inserting "500";

(2) in paragraph (1)—

(A) by striking "1989, 1990, and 1991" and inserting "a year (beginning with 1989)", and

(B) by striking "before April 1, 1989," and inserting "at any time before the year";

(3) in paragraph (2)—

(A) by striking "1990 or 1991" and inserting "in a year (after 1989)", and

(B) by striking "each respective year" and inserting "the year"; and

(4) by striking paragraph (3).

42 USC 1395k note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1990.

SEC. 6133. INCREASE IN PAYMENT LIMIT FOR PHYSICAL AND OCCUPATIONAL THERAPY SERVICES.

(a) IN GENERAL.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) is amended by striking "$500" each place it appears and inserting "$750".

42 USC 1395*l* note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1990.

42 USC 1395m note.

SEC. 6134. STUDY OF PAYMENT FOR PORTABLE X-RAY SERVICES.

Reports.

The Secretary of Health and Human Services shall conduct a study of the costs of furnishing, and payments for, portable x-ray services under part B of title XVIII of the Social Security Act. Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to Congress on the results of such study and shall include a recommendation respecting whether payment for such services should be made in the same manner as for radiologists' services or on the basis of a separate fee schedule.

SEC. 6135. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

42 USC 1395b-1 note.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) by striking ", for a period of three additional years," and inserting "through December 31, 1993,"; and

Reports.

(2) by adding at the end the following: "The Secretary shall submit a report to Congress on the waiver program with respect to the quality of health care, beneficiary costs, and such other factors as may be appropriate.".

42 USC 1395*l* note.

SEC. 6136. STUDY OF REIMBURSEMENT FOR AMBULANCE SERVICES.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine the adequacy and appropriateness of payment amounts under title XVIII of the Social Security Act for ambulance services. Such study shall examine at least the following:

(1) The effect of payment amounts on the provision of ambulance services in rural areas.

(2) The relationship of such payment amounts to the direct and indirect costs of providing ambulance services. Such relationship shall be examined separately—

(A)(i) for tax-subsidized, municipally-owned and operated services, (ii) for volunteer services, (iii) for private, for-profit services, and (iv) for hospital-owned services, and

(B) for different levels (such as basic life support and advanced life support) of such services.

(3) How such payment amounts compare to the payment amounts made for ambulance services under medicaid plans under title XIX of such Act.

(b) REPORT.—By not later than one year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the results of the study conducted under subsection (a) and shall include in the report such recommendations for changes in medicare payment policy with respect to ambulance services as may be needed to ensure access by medicare beneficiaries to quality ambulance services in metropolitan and rural areas.

SEC. 6137. PROPAC STUDY OF PAYMENTS FOR SERVICES IN HOSPITAL OUTPATIENT DEPARTMENTS.

42 USC 1395*l* note.

(a) IN GENERAL.—The Prospective Payment Assessment Commission shall conduct a study on payment under title XVIII of the Social Security Act for hospital outpatient services. Such study shall include an examination of—

(1) the sources of growth in spending for hospital outpatient services;

(2) the differences between the costs of delivering services in a hospital outpatient department as opposed to providing similar services in other appropriate settings (including ambulatory surgery centers and physician offices);

(3) the effects on outpatient hospital costs of the step-down method used to allocate hospital capital between inpatient and outpatient departments and the extent to which hospital outpatient costs were affected by the implementation of the prospective payment system of payment for inpatient hospital services and by increased review of such services by peer review organizations; and

(4) alternative methods for reimbursing hospitals for services in outpatient departments under the medicare program, including prospective payment methods, fee schedules, and such other methods as the Commission may consider appropriate.

(b) REPORTS.—(1) By not later than July 1, 1990, the Commission shall submit a report to Congress on the study conducted under subsection (a) with respect to the portions of the study described in paragraphs (1), (2), and (3) of such subsection, and shall include in the report such recommendations as the Commission deems appropriate.

(2) By not later than March 1, 1991, the Commission shall submit a report to Congress on the study conducted under subsection (a) with respect to the portion of the study described in paragraph (4) of such subsection, and shall include in the report such recommendations as the Commission deems appropriate.

42 USC 1395w-1 note.

SEC. 6138. PHYSPRC STUDY OF PAYMENTS FOR ASSISTANTS AT SURGERY.

(a) STUDY; CONTENTS.—The Physician Payment Review Commission shall conduct a study of the payments made under title XVIII of the Social Security Act for assistants at surgery. Such study shall examine—

(1) the necessity and appropriateness of using an assistant at surgery;

(2) the use of physician and non-physician assistants at surgery;

(3) the appropriateness of providing for payments, and the appropriate level of payment, under title XVIII of the Social Security Act for assistants at surgery; and

(4) the effect of the amendments made by section 9338 of the Omnibus Budget Reconciliation Act of 1986 on the employment of registered nurses as assistants at surgery, and whether or not the reductions described in subsection (d) of such section have been implemented.

(b) REPORT.—By not later than April 1, 1991, the Commission shall submit a report to Congress on the study conducted under subsection (a), and shall include in the report such recommendations as it deems appropriate.

42 USC 1395m note.

SEC. 6139. GAO STUDY OF STANDARDS FOR USE OF AND PAYMENT FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.

(a) STUDY.—The Comptroller General shall conduct a study of the appropriate uses of items of durable medical equipment and of the appropriate criteria for making determinations of medical necessity under title XVIII of the Social Security Act for such items, with particular emphasis on items (including seat-lift chairs) that may be subject to abusive billing practices. Such study shall include an analysis of—

(1) the appropriate use of forms in making medical necessity determinations for items of durable medical equipment under such title; and

(2) procedures for identifying items of durable medical equipment that should no longer be covered under such title.

(b) USE OF PANEL IN CONDUCTING STUDY.—The Comptroller General shall conduct such study with a panel convened by the Comptroller General consisting of—

(1) specialists in the disciplines of orthopedic medicine, rehabilitation, arthritis, and geriatric medicine;

(2) representatives of consumer organizations; and

(3) representatives of carriers under the medicare program.

(c) REPORT.—Not later than April 1, 1991, the Comptroller General shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a), and shall include in such report such recommendations as the Comptroller General deems appropriate.

SEC. 6140. NARROWING OF RANGE OF AMOUNTS RECOGNIZED FOR ITEMS OF DURABLE MEDICAL EQUIPMENT.

Paragraphs (8) and (9) of section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) are each amended in subparagraph (D)—

(1) in clause (i), by striking "1991" and all that follows through "80 percent" and inserting "1991, may not exceed 125 percent, and may not be lower than 85 percent"; and

(2) in clause (ii), by striking "125 percent" and all that follows through "85 percent" and inserting "120 percent, and may not be lower than 90 percent".

SEC. 6141. PHYSICIAN OFFICE LABS.

(a) In General.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) in the matter following paragraph (14), by striking "which is independent" and all that follows through "per year," and inserting the following: ", including a laboratory that is part of";

(2) by redesignating paragraph (16) as subparagraph (B); and

(3) by inserting immediately after paragraph (15) the following:

"(16)(A) meets the certification requirements under section 353 of the Public Health Service Act; and".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act. 42 USC 1395x note.

SEC. 6142. STUDY OF REIMBURSEMENT FOR BLOOD CLOTTING FACTOR FOR HEMOPHILIA PATIENTS.

The Secretary of Health and Human Services shall review the current methodology for reimbursing for blood clotting factor for hemophilia patients under part B of title XVIII of the Social Security Act and shall evaluate the effect of such methodology on the accessibility and affordability of such factor to medicare beneficiaries. By not later than 6 months after the date of the enactment of this Act, the Secretary shall report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review and shall include in such report such recommendations as the Secretary deems appropriate. Reports.

PART 3—PROVISIONS RELATING TO PARTS A AND B

Subpart A—General Provisions

SEC. 6201. REDUCTIONS UNDER ORIGINAL SEQUESTER ORDER AND APPLICABILITY OF NEW SEQUESTER ORDER FOR HEALTH MAINTENANCE ORGANIZATIONS. 2 USC 902 note.

Notwithstanding any other provision of law (including section 11002 or any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on October 16, 1989, pursuant to section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through December 31, 1989, with respect to payments under section 1833(a)(1)(A) or 1876 of the Social Security Act, section 402 of the Social Security Amendments of 1967, or section 222 of the Social Security Amendments of 1972. Each such payment made during fiscal year 1990 after such date shall be increased by 1.42 percent above what it would otherwise be under this Act.

SEC. 6202. MEDICARE AS SECONDARY PAYER.

(a) Identification of Medicare Secondary Payer Situations.—

(1) **Disclosure of certain taxpayer identity information for verification of employment status of medicare beneficiary and spouse of medicare beneficiary.**—

(A) **In general.**—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

26 USC 6103.

"(12) **Disclosure of certain taxpayer identity information for verification of employment status of medicare beneficiary and spouse of medicare beneficiary.**—

"(A) **Return information from Internal Revenue Service.**—The Secretary shall, upon written request from the Commissioner of Social Security, disclose to the Commissioner available filing status and taxpayer identity information from the individual master files of the Internal Revenue Service relating to whether any medicare beneficiary identified by the Commissioner was a married individual (as defined in section 7703) for any specified year after 1986, and, if so, the name of the spouse of such individual and such spouse's TIN.

"(B) **Return information from Social Security Administration.**—The Commissioner of Social Security shall, upon written request from the Administrator of the Health Care Financing Administration, disclose to the Administrator the following information:

"(i) The name and TIN of each medicare beneficiary who is identified as having received wages (as defined in section 3401(a)) from a qualified employer in a previous year.

"(ii) For each medicare beneficiary who was identified as married under subparagraph (A) and whose spouse is identified as having received wages from a qualified employer in a previous year—

"(I) the name and TIN of the medicare beneficiary, and

"(II) the name and TIN of the spouse.

"(iii) With respect to each such qualified employer, the name, address, and TIN of the employer and the number of individuals with respect to whom written statements were furnished under section 6051 by the employer with respect to such previous year.

"(C) **Disclosure by Health Care Financing Administration.**—With respect to the information disclosed under subparagraph (B), the Administrator of the Health Care Financing Administration may disclose—

"(i) to the qualified employer referred to in such subparagraph the name and TIN of each individual identified under such subparagraph as having received wages from the employer (hereinafter in this subparagraph referred to as the 'employee') for purposes of determining during what period such employee or the employee's spouse may be (or have been) covered under a group health plan of the employer and what benefits are or were covered under the plan (including the name, address, and identifying number of the plan), "(ii) to any group health plan which provides or provided coverage to such an employee or spouse, the name of such employee and the employee's spouse (if the spouse is a medicare beneficiary) and the name and address of the employer, and, for the purpose of presenting a claim to the plan—

"(I) the TIN of such employee if benefits were paid under title XVIII of the Social Security Act with respect to the employee during a period in which the plan was a primary plan (as defined in section 1862(b)(2)(A) of the Social Security Act), and

"(II) the TIN of such spouse if benefits were paid under such title with respect to the spouse during such period, and

"(iii) to any agent of such Administrator the information referred to in subparagraph (B) for purposes of carrying out clauses (i) and (ii) on behalf of such Administrator.

"(D) SPECIAL RULES.—

"(i) RESTRICTIONS ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, determining the extent to which any medicare beneficiary is covered under any group health plan.

"(ii) TIMELY RESPONSE TO REQUESTS.—Any request made under subparagraph (A) or (B) shall be complied with as soon as possible but in no event later than 120 days after the date the request was made.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) MEDICARE BENEFICIARY.—The term 'medicare beneficiary' means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII of the Social Security Act, but does not include such an individual enrolled in part A under section 1818.

"(ii) GROUP HEALTH PLAN.—The term 'group health plan' means—

"(I) any group health plan (as defined in section 5000(b)(1)), and

"(II) any large group health plan (as defined in section 5000(b)(2)).

"(iii) QUALIFIED EMPLOYER.—The term 'qualified employer' means, for a calendar year, an employer which has furnished written statements under section 6051 with respect to at least 20 individuals for wages paid in the year.

"(F) TERMINATION.—Subparagraphs (A) and (B) shall not apply to—

"(i) any request made after September 30, 1991, and

"(ii) any request made before such date for information relating to—

"(I) 1990 or thereafter in the case of subparagraph (A), or

"(II) 1991 or thereafter in the case of subparagraph (B)."

(B) SAFEGUARDS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by inserting "(l)(12)," after "(e)(1)(D)(iii),". 26 USC 6103.

26 USC 6103. (ii) Subparagraph (A) of section 6103(p)(3) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(iii) Paragraph (4) of section 6103(p) of such Code is amended in the material preceding subparagraph (A) by striking "or (9) shall" and inserting "(9), or (12) shall".

(iv) Clause (ii) of section 6103(p)(4)(F) of such Code is amended by striking "or (11)" and inserting "(11), or (12)".

(v) The next to the last sentence of paragraph (4) of section 6103(p) of such Code is amended by inserting "or which receives any information under subsection (l)(12)(B) and which discloses any such information to any agent" before ", this paragraph".

(C) PENALTY.—Paragraph (2) of section 7213(a) of such Code is amended by striking "or (10)" and inserting "(10), or (12)".

26 USC 6103 note. (D) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the date of the enactment of this Act.

(2) RESPONSIBILITIES OF HCFA.—

(A) IN GENERAL.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)), as amended by subsection (b)(1) of this section, is amended by inserting after paragraph (4) the following new paragraph:

"(5) IDENTIFICATION OF SECONDARY PAYER SITUATIONS.—

"(A) REQUESTING MATCHING INFORMATION.—

"(i) COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall, not less often than annually, transmit to the Secretary of the Treasury a list of the names and TINs of medicare beneficiaries (as defined in section 6103(l)(12) of the Internal Revenue Code of 1986) and request that the Secretary disclose to the Commissioner the information described in subparagraph (A) of such section.

"(ii) ADMINISTRATOR.—The Administrator of the Health Care Financing Administration shall request, not less often than annually, the Commissioner of the Social Security Administration to disclose to the Administrator the information described in subparagraph (B) of section 6103(l)(12) of the Internal Revenue Code of 1986.

"(B) DISCLOSURE TO FISCAL INTERMEDIARIES AND CARRIERS.—In addition to any other information provided under this title to fiscal intermediaries and carriers, the Administrator shall disclose to such intermediaries and carriers (or to such a single intermediary or carrier as the Secretary may designate) the information received under subparagraph (A) for the purposes of carrying out this subsection.

"(C) CONTACTING EMPLOYERS.—

"(i) IN GENERAL.—With respect to each individual (in this subparagraph referred to as an 'employee') who was furnished a written statement under section 6051 of the Internal Revenue Code of 1986 by a qualified employer (as defined in section 6103(l)(12)(D)(iii) of such

Code), as disclosed under subparagraph (B), the appropriate fiscal intermediary or carrier shall contact the employer in order to determine during what period the employee or employee's spouse may be (or have been) covered under a group health plan of the employer and the nature of the coverage that is or was provided under the plan (including the name, address, and identifying number of the plan).

"(ii) EMPLOYER RESPONSE.—Within 30 days of the date of receipt of the inquiry, the employer shall notify the intermediary or carrier making the inquiry as to the determinations described in clause (i). An employer (other than a Federal or other governmental entity) who willfully or repeatedly fails to provide timely and accurate notice in accordance with the previous sentence shall be subject to a civil money penalty of not to exceed $1,000 for each individual with respect to which such an inquiry is made. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(iii) SUNSET ON REQUIREMENT.—Clause (ii) shall not apply to inquiries made after September 30, 1991.".

(B) DEADLINE FOR FIRST REQUEST.—The Commissioner of Social Security shall first— 42 USC 1395y note.

(i) transmit to the Secretary of the Treasury information under paragraph (5)(A)(i) of section 1862(b) of the Social Security Act (as inserted by subparagraph (A)), and

(ii) request from the Secretary disclosure of information described in section 6013(l)(12)(A) of the Internal Revenue Code of 1986,

by not later than 14 days after the date of the enactment of this Act.

(b) UNIFORM ENFORCEMENT AND COORDINATION OF BENEFITS.—

(1) IN GENERAL.—Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended—

(A) in the heading, by adding at the end the following: "AND MEDICARE AS SECONDARY PAYER"; and

(B) by amending subsection (b) to read as follows:

"(b) MEDICARE AS SECONDARY PAYER.—

"(1) REQUIREMENTS OF GROUP HEALTH PLANS.—

"(A) WORKING AGED UNDER GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A group health plan—

"(I) may not take into account, for any item or service furnished to an individual 65 years of age or older at the time the individual is covered under the plan by reason of the current employment of the individual (or the individual's spouse), that the individual is entitled to benefits under this title under section 226(a), and

"(II) shall provide that any employee age 65 or older, and any employee's spouse age 65 or older, shall be entitled to the same benefits under the plan under the same conditions as any employee, and the spouse of such employee, under age 65.

"(ii) EXCLUSION OF GROUP HEALTH PLAN OF A SMALL EMPLOYER.—Clause (i) shall not apply to a group health plan unless the plan is sponsored by or contributed to by an employer that has 20 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year.

"(iii) EXCEPTION FOR SMALL EMPLOYERS IN MULTIEMPLOYER OR MULTIPLE EMPLOYER GROUP HEALTH PLANS.—Clause (i) also shall not apply with respect to individuals enrolled in a multiemployer or multiple employer group health plan if the coverage of the individuals under the plan is by virtue of employment with an employer that does not have 20 or more employees for each working day in each of 20 or more calendar weeks in the current calendar year or the preceding calendar year; except that the exception provided in this clause shall only apply if the plan elects treatment under this clause.

"(iv) EXCEPTION FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Clause (i) shall not apply to an item or service furnished in a month to an individual if for the month the individual is, or would upon application be, entitled to benefits under section 226A.

"(v) GROUP HEALTH PLAN DEFINED.—In this subparagraph, and subparagraph (C), the term 'group health plan' has the meaning given such term in section 5000(b)(1) of the Internal Revenue Code of 1986.

"(B) DISABLED ACTIVE INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

"(i) IN GENERAL.—A large group health plan (as defined in clause (iv)(II)) may not take into account that an active individual (as defined in clause (iv)(I)) is entitled to benefits under this title under section 226(b).

"(ii) EXCEPTION FOR INDIVIDUALS WITH END STAGE RENAL DISEASE.—Clause (i) shall not apply to an item or service furnished in a month to an individual if for the month the individual is, or would upon application be, entitled to benefits under section 226A.

"(iii) SUNSET.—Clause (i) shall only apply to items and services furnished on or after January 1, 1987, and before January 1, 1992.

"(iv) DEFINITIONS.—In this subparagraph:

"(I) ACTIVE INDIVIDUAL.—The term 'active individual' means an employee (as may be defined in regulations), the employer, self-employed individual (such as the employer), an individual associated with the employer in a business relationship, or a member of the family of any of such persons.

"(II) LARGE GROUP HEALTH PLAN.—The term 'large group health plan' has the meaning given such term in section 5000(b)(2) of the Internal Revenue Code of 1986.

"(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—A group health plan (as defined in subparagraph (A)(v))—

"(i) may not take into account that an individual is entitled to benefits under this title solely by reason of section 226A during the 12-month period which begins with the earlier of—

"(I) the month in which a regular course of renal dialysis is initiated, or

"(II) in the case of an individual who receives a kidney transplant, the first month in which he would be eligible for benefits under part A (if he had filed an application for such benefits) under the provisions of section 226A(b)(1)(B); and

"(ii) may not differentiate in the benefits it provides between individuals having end stage renal disease and other individuals covered by such plan on the basis of the existence of end stage renal disease, the need for renal dialysis, or in any other manner;

except that clause (ii) shall not prohibit a plan from taking into account that an individual is entitled to benefits under this title solely by reason of section 226A after the end of the 12-month period described in clause (i).

"(2) MEDICARE SECONDARY PAYER.—

"(A) IN GENERAL.—Payment under this title may not be made, except as provided in subparagraph (B), with respect to any item or service to the extent that—

"(i) payment has been made, or can reasonably be expected to be made, with respect to the item or service as required under paragraph (1), or

"(ii) payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under a workmen's compensation law or plan of the United States or a State or under an automobile or liability insurance policy or plan (including a self-insured plan) or under no fault insurance.

In this subsection, the term 'primary plan' means a group health plan or large group health plan, to the extent that clause (i) applies, and a workmen's compensation law or plan, an automobile or liability insurance policy or plan (including a self-insured plan) or no fault insurance, to the extent that clause (ii) applies.

"(B) CONDITIONAL PAYMENT.—

"(i) PRIMARY PLANS.—Any payment under this title with respect to any item or service to which subparagraph (A) applies shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been or could be made under such subparagraph.

"(ii) ACTION BY UNITED STATES.—In order to recover payment under this title for such an item or service, the United States may bring an action against any entity which is required or responsible under this subsection to pay with respect to such item or service (or any portion thereof) under a primary plan (and may, in accordance with paragraph (3)(A) collect double damages against that entity), or against any other entity (including any physician or provider) that has received payment from that entity with respect to the item or service, and may join or intervene in any action related to the events that gave rise to the need for the item or service.

"(iii) SUBROGATION RIGHTS.—The United States shall be subrogated (to the extent of payment made under this title for such an item or service) to any right under this subsection of an individual or any other entity to payment with respect to such item or service under a primary plan.

"(iv) WAIVER OF RIGHTS.—The Secretary may waive (in whole or in part) the provisions of this subparagraph in the case of an individual claim if the Secretary determines that the waiver is in the best interests of the program established under this title.

"(3) ENFORCEMENT.—

"(A) PRIVATE CAUSE OF ACTION.—There is established a private cause of action for damages (which shall be in an amount double the amount otherwise provided) in the case of a primary plan which fails to provide for primary payment (or appropriate reimbursement) in accordance with such paragraphs (1) and (2)(A).

"(B) REFERENCE TO EXCISE TAX WITH RESPECT TO NONCONFORMING GROUP HEALTH PLANS.—For provision imposing an excise tax with respect to nonconforming group health plans, see section 5000 of the Internal Revenue Code of 1986.

"(4) COORDINATION OF BENEFITS.—Where payment for an item or service by a primary plan is less than the amount of the charge for such item or service and is not payment in full, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but—

"(A) payment under this title may not exceed an amount which would be payable under this title for such item or service if paragraph (2)(A) did not apply; and

"(B) payment under this title, when combined with the amount payable under the primary plan, may not exceed—

"(i) in the case of an item or service payment for which is determined under this title on the basis of reasonable cost (or other cost-related basis) or under section 1886, the amount which would be payable under this title on such basis, and

"(ii) in the case of an item or service for which payment is authorized under this title on another basis—

"(I) the amount which would be payable under the primary plan (without regard to deductibles and coinsurance under such plan), or

"(II) the reasonable charge or other amount which would be payable under this title (without regard to deductibles and coinsurance under this title),

whichever is greater.".

(2) **Enforcement through excise tax.**—Section 5000 of the Internal Revenue Code of 1986 is amended— 26 USC 5000.

(A) by striking "LARGE" in the heading;

(B) in subsection (a), by striking "large" each place it appears; and

(C) by amending subsections (b) and (c) to read as follows:

"(b) **Group Health Plan and Large Group Health Plan.**—For purposes of this section—

"(1) **Group health plan.**—The term 'group health plan' means any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer's employees, former employees, or the families of such employees or former employees.

"(2) **Large group health plan.**—The term 'large group health plan' means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.

"(c) **Nonconforming Group Health Plan.**—For purposes of this section, the term 'nonconforming group health plan' means a group health plan or large group health plan that at any time during a calendar year does not comply with the requirements of subparagraphs (A) and (C) or subparagraph (B), respectively, of section 1862(b)(1) of the Social Security Act.".

(3) **Repeal of certain alternative enforcement provisions.**—

(A) **Denial of deduction for group health plans.**—Subsection (i) of section 162 of such Code (relating to group health plans) is repealed.

(B) **Conforming amendment.**—Section 4980B(g)(2) of such Code is amended by striking "162(i)" and inserting "5000(b)(1)".

(C) **Age discrimination in employment act.**—The Age Discrimination in Employment Act of 1967 is amended—

(i) by striking subsection (g) of section 4, and 29 USC 623.

(ii) in section 12(a), by striking "(except the provisions of section 4(g))". 29 USC 631.

(4) **Clerical and conforming amendments.**—

(A) Chapter 47 of the Internal Revenue Code of 1986 is amended—

(i) in the heading, by striking "LARGE", and

(ii) in the table of sections, by striking "large".

(B) The item in the table of chapters of subtitle D of such Code relating to chapter 47 is amended by striking "large".

(C) Sections 1837(i) and 1839(b) of the Social Security Act (42 U.S.C. 1395p(i), 1395r(b)) are each amended by striking "1862(b)(3)(A)(iv)" and "1862(b)(4)(B)" each place each appears and inserting "1862(b)(1)(A)(v)" and "1862(b)(1)(B)(iv)", respectively.

(5) **Effective date.**—The amendments made by this subsection shall apply to items and services furnished after the date of the enactment of this Act. 42 USC 162 note.

(c) **Special Enrollment Period for Disabled Employees.**—

(1) IN GENERAL.—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)) is amended—

(A) in paragraph (1)—

(i) by striking subparagraph (A),

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(iii) in the second sentence, by inserting "not described in the previous sentence" after "In the case of an individual"; and

(B) in paragraph (2)—

(i) in subparagraph (B)(i), by striking "(1)(B)" and inserting "(1)(A)",

(ii) by striking subparagraph (A),

(iii) by redesignating subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively, and

(iv) in the second sentence, by inserting "not described in the previous sentence" after "In the case of an individual".

(2) CONFORMING AMENDMENT.—The second sentence of section 1839(b) of such Act (42 U.S.C. 1395r(b)) is amended by striking "during which the individual has attained the age of 65 and".

42 USC 1395p note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to enrollments occurring after, and premiums for months after, the second calendar quarter beginning after the date of the enactment of this Act.

(d) NO MATCHING BASED ON PRIVATE ACTIVITIES REQUIRED IN FISCAL INTERMEDIARY AGREEMENTS AND CARRIER CONTRACTS.—

(1) FISCAL INTERMEDIARY AGREEMENTS.—Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end the following: "The Secretary may not require, as a condition of entering into or renewing an agreement under this section or under section 1871, that a fiscal intermediary match data obtained other than in its activities under this part with data used in the administration of this part for purposes of identifying situations in which the provisions of section 1862(b) may apply.".

(2) CARRIER CONTRACTS.—Section 1842(b)(2)(A) of such Act (42 U.S.C. 1395u(b)(2)(A)) is amended by adding at the end the following: "The Secretary may not require, as a condition of entering into or renewing a contract under this section or under section 1871, that a carrier match data obtained other than in its activities under this part with data used in the administration of this part for purposes of identifying situations in which section 1862(b) may apply.".

42 USC 1395h note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to agreements and contracts entered into or renewed on or after the date of the enactment of this Act.

(e) TREATMENT OF EMPLOYMENT AS A MEMBER OF A RELIGIOUS ORDER.—

(1) IN GENERAL.—Section 1862(b)(1) of the Social Security Act (42 U.S.C. 1395y(b)(1)), as amended by subsection (b)(1) of this section, is amended by adding at the end the following new subparagraph:

"(D) TREATMENT OF CERTAIN MEMBERS OF RELIGIOUS ORDERS.—In this subsection, an individual shall not be considered to be employed, or an employee, with respect to the performance of services as a member of a religious order which are considered employment only by virtue of an election made by the religious order under section 3121(r) of the Internal Revenue Code of 1986.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after October 1, 1989. 42 USC 1395y note.

SEC. 6203. PAYMENT FOR END STAGE RENAL DISEASE SERVICES.

(a) MAINTENANCE OF CURRENT COMPOSITE RATE.—

(1) IN GENERAL.—Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986 is amended— 42 USC 1395rr note.

(A) by striking "and before October 1, 1988" and inserting "and before October 1, 1990", and

(B) by adding at the end the following: "No change may be made in the base rate in effect as of September 30, 1990, unless the Secretary makes such change in accordance with notice and comment requirements set forth in section 1871(b)(1) of such Act.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986. 42 USC 1395rr note.

(b) REQUIREMENTS FOR PATIENTS DEALING DIRECTLY WITH MEDICARE.—

(1) LIMITATION ON AMOUNT OF PAYMENT GENERALLY.—Section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)) is amended by inserting after the second sentence the following new sentence: "The amount of a payment made under any method other than a method based on a single composite weighted formula may not exceed the amount (or, in the case of continuous cycling peritoneal dialysis, 130 percent of the amount) of the median payment that would have been made under the formula for hospital-based facilities.".

(2) AGREEMENTS WITH PROVIDERS OF SERVICES.—Section 1881(b)(4) of such Act (42 U.S.C. 1395rr(b)(4)) is amended—

(A) by striking "(4)" and inserting "(4)(A)", and

(B) by adding at the end the following new subparagraph:

"(B) The Secretary shall make payments to a supplier of home dialysis supplies and equipment furnished to a patient whose self-care home dialysis is not under the direct supervision of an approved provider of services or renal dialysis facility only in accordance with a written agreement under which—

"(i) the patient certifies that the supplier is the sole provider of such supplies and equipment to the patient,

"(ii) the supplier agrees to receive payment for the cost of such supplies and equipment only on an assignment-related basis, and

"(iii) the supplier certifies that it has entered into a written agreement with an approved provider of services or renal dialysis facility under which such provider or facility agrees to furnish to such patient all self-care home dialysis support services and all other necessary dialysis services and supplies, including institutional dialysis services and supplies and emergency services.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to dialysis services, supplies, and equipment furnished on or after February 1, 1990. 42 USC 1395rr note.

SEC. 6204. PHYSICIAN OWNERSHIP OF, AND REFERRAL TO, HEALTH CARE ENTITIES.

(a) Prohibition of Certain Financial Arrangements Between Referring Physicians and Clinical Laboratories.—Title XVIII of the Social Security Act is amended by inserting after section 1876 the following new section:

"LIMITATION ON CERTAIN PHYSICIAN REFERRALS

42 USC 1395nn. "Sec. 1877. (a) Prohibition of Certain Referrals.—

"(1) In general.—Except as provided in subsection (b), if a physician (or immediate family member of such physician) has a financial relationship with an entity specified in paragraph (2), then—

"(A) the physician may not make a referral to the entity for the furnishing of clinical laboratory services for which payment otherwise may be made under this title, and

"(B) the entity may not present or cause to be presented a claim under this title or bill to any individual, third party payor, or other entity for clinical laboratory services furnished pursuant to a referral prohibited under subparagraph (A).

"(2) Financial relationship specified.—For purposes of this section, a financial relationship of a physician (or immediate family member) with an entity specified in this paragraph is—

"(A) except as provided in subsections (c) and (d), an ownership or investment interest in the entity; or

"(B) except as provided in subsection (e), a compensation arrangement (as defined in subsection (h)(1)(A)) between the physician (or immediate family member) and the entity.

An ownership or investment interest described in subparagraph (A) may be through equity, debt, or other means.

"(b) General Exceptions to Both Ownership and Compensation Arrangement Prohibitions.—Subsection (a)(1) shall not apply in the following cases:

"(1) Physicians' services.—In the case of physicians' services (as defined in section 1861(q)) provided personally by (or under the personal supervision of) another physician in the same group practice (as defined in subsection (h)(4)) as the referring physician.

"(2) In-office ancillary services.—In the case of services—

"(A) that are furnished—

"(i) personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are employed by such physician or group practice and who are personally supervised by the physician or by another physician in the group practice, and

"(ii)(I) in a building in which the referring physician (or another physician who is a member of the same group practice) furnishes physicians' services unrelated to the furnishing of clinical laboratory services, or

"(II) in the case of a referring physician who is a member of a group practice, in another building which is used by the group practice for the centralized provision of the group's clinical laboratory services, and

"(B) that are billed by the physician performing or supervising the services, by a group practice of which such physician is a member, or by an entity that is wholly owned by such physician or such group practice,

if the ownership or investment interest in such services meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(3) PREPAID PLANS.—In the case of services furnished—

"(A) by an organization with a contract under section 1876 to an individual enrolled with the organization,

"(B) by an organization described in section 1833(a)(1)(A) to an individual enrolled with the organization, or

"(C) by an organization receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, to an individual enrolled with the organization.

"(4) OTHER PERMISSIBLE EXCEPTIONS.—In the case of any other financial relationship which the Secretary determines, and specifies in regulations, does not pose a risk of program or patient abuse.

"(c) GENERAL EXCEPTION RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION FOR OWNERSHIP IN PUBLICLY-TRADED SECURITIES.—Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) which were purchased on terms generally available to the public and which are in a corporation that—

"(1) is listed for trading on the New York Stock Exchange or on the American Stock Exchange, or is a national market system security traded under an automated interdealer quotation system operated by the National Association of Securities Dealers, and

"(2) had, at the end of the corporation's most recent fiscal year, total assets exceeding $100,000,000,

shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A).

"(d) ADDITIONAL EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION.—The following, if not otherwise excepted under subsection (b), shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A):

"(1) HOSPITALS IN PUERTO RICO.—In the case of clinical laboratory services provided by a hospital located in Puerto Rico.

"(2) RURAL PROVIDER.—In the case of clinical laboratory services if the laboratory furnishing the services is in a rural area (as defined in section 1886(d)(2)(D)).

"(3) HOSPITAL OWNERSHIP.—In the case of clinical laboratory services provided by a hospital (other than a hospital described in paragraph (1)) if—

"(A) the referring physician is authorized to perform services at the hospital, and

"(B) the ownership or investment interest is in the hospital itself (and not merely in a subdivision thereof).

"(e) EXCEPTIONS RELATING TO OTHER COMPENSATION ARRANGEMENTS.—The following shall not be considered to be a compensation arrangement described in subsection (a)(2)(B):

"(1) RENTAL OF OFFICE SPACE.—Payments made for the rental or lease of office space if—

"(A) there is a written agreement, signed by the parties, for the rental or lease of the space, which agreement—

"(i) specifies the space covered by the agreement and dedicated for the use of the lessee,

"(ii) provides for a term of rental or lease of at least one year;

"(iii) provides for payment on a periodic basis of an amount that is consistent with fair market value;

"(iv) provides for an amount of aggregate payments that does not vary (directly or indirectly) based on the volume or value of any referrals of business between the parties; and

"(v) would be considered to be commercially reasonable even if no referrals were made between the parties;

"(B) in the case of rental or lease of office space in which a physician who is an interested investor (or an interested investor who is an immediate family member of the physician) has an ownership or investment interest, the office space is in the same building as the building in which the physician (or group practice of which the physician is a member) has a practice; and

"(C) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(2) EMPLOYMENT AND SERVICE ARRANGEMENTS WITH HOSPITALS.—An arrangement between a hospital and a physician (or immediate family member) for the employment of the physician (or family member) or for the provision of administrative services, if—

"(A) the arrangement is for identifiable services;

"(B) the amount of the remuneration under the arrangement—

"(i) is consistent with the fair market value of the services, and

"(ii) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician;

"(C) the remuneration is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the hospital; and

"(D) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(3) OTHER SERVICE ARRANGEMENTS.—Remuneration from an entity (other than a hospital) under an arrangement if—

"(A) the arrangement is—

"(i) for specific identifiable services as the medical director or as a member of a medical advisory board at the entity pursuant to a requirement of this title,

"(ii) for specific identifiable physicians' services to be furnished to an individual receiving hospice care if payment for such services may only be made under this title as hospice care,

"(iii) for specific physicians' services furnished to a nonprofit blood center, or "(iv) for specific identifiable administrative services (other than direct patient care services), but only under exceptional circumstances specified by the Secretary in regulations;

"(B) the requirements described in subparagraphs (B) and (C) of paragraph (2) are met with respect to the entity in the same manner as they apply to a hospital; and

"(C) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(4) PHYSICIAN RECRUITMENT.—In the case of remuneration which is provided by a hospital to a physician to induce the physician to relocate to the geographic area served by the hospital in order to be a member of the medical staff of the hospital, if—

"(A) the physician is not required to refer patients to the hospital,

"(B) the amount of the remuneration under the arrangement is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician, and

"(C) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(5) ISOLATED TRANSACTIONS.—In the case of an isolated financial transaction, such as a one-time sale of property, if—

"(A) the requirements described in subparagraphs (B) and (C) of paragraph (2) are met with respect to the entity in the same manner as they apply to a hospital, and

"(B) the transaction meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(6) SALARIED PHYSICIANS IN A GROUP PRACTICE.—A compensation arrangement involving payment by a group practice of the salary of a physician member of the group practice.

"(f) REPORTING REQUIREMENTS.—Each entity providing covered items or services for which payment may be made under this title shall provide the Secretary with the information concerning the entity's ownership arrangements, including—

"(1) the covered items and services provided by the entity, and

"(2) the names and all of the medicare provider numbers of the physicians who are interested investors or who are immediate relatives of interested investors.

Such information shall be provided in such form, manner, and at such times as the Secretary shall specify. Such information shall first be provided not later than 1 year after the date of the enactment of this section.

"(g) SANCTIONS.—

"(1) DENIAL OF PAYMENT.—No payment may be made under this title for a clinical laboratory service which is provided in violation of subsection (a)(1).

"(2) REQUIRING REFUNDS FOR CERTAIN CLAIMS.—If a person collects any amounts that were billed in violation of subsection (a)(1), the person shall be liable to the individual for, and shall refund on a timely basis to the individual, any amounts so collected.

"(3) **Civil money penalty and exclusion for improper claims.**—Any person that presents or causes to be presented a bill or a claim for a service that such person knows or should know is for a service for which payment may not be made under paragraph (1) or for which a refund has not been made under paragraph (2) shall be subject to a civil money penalty of not more than $15,000 for each such service. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(4) **Civil money penalty and exclusion for circumvention schemes.**—Any physician or other entity that enters into an arrangement or scheme (such as a cross-referral arrangement) which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, shall be subject to a civil money penalty of not more than $100,000 for each such arrangement or scheme. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(5) **Failure to report information.**—Any person who is required, but fails, to meet a reporting requirement of subsection (f) is subject to a civil money penalty of not more than $10,000 for each day for which reporting is required to have been made.

"(h) **Definitions.**—For purposes of this section:

"(1) **Compensation arrangement; remuneration.**—(A) The term 'compensation arrangement' means any arrangement involving any remuneration between a physician (or immediate family member) and an entity.

"(B) The term 'remuneration' includes any remuneration, directly or indirectly, overtly or covertly, in cash or in kind.

"(2) **Employee.**—An individual is considered to be 'employed by' or an 'employee' of an entity if the individual would be considered to be an employee of the entity under the usual common law rules applicable in determining the employer-employee relationship (as applied for purposes of section 3121(d)(2) of the Internal Revenue Code of 1986).

"(3) **Fair market value.**—The term 'fair market value' means the value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes (not taking into account its intended use) and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

"(4) **Group practice.**—The term 'group practice' means a group of two or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(A) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides (including medical care, consultation, diagnosis, or treatment) through the joint use of shared office space, facilities, equipment, and personnel;

"(B) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group;

"(C) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group; and

"(D) which meets such other standards as the Secretary may impose by regulation.

In the case of a faculty practice plan associated with a hospital with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group (as well as perform other tasks such as research), the previous sentence shall be applied only with respect to the services provided within the faculty practice plan.

"(5) INTERESTED INVESTOR; DISINTERESTED INVESTOR.—The term 'interested investor' means, with respect to an entity, an investor who is a physician in a position to make or to influence referrals or business to the entity (or who is an immediate family member of such an investor), and the term 'disinterested investor' means an investor other than an interested investor.

"(6) REFERRAL; REFERRING PHYSICIAN.—

"(A) PHYSICIANS' SERVICES.—Except as provided in subparagraph (C), in the case of a clinical laboratory service which under law is required to be provided by (or under the supervision of) a physician, the request by a physician for the service, including the request by a physician for a consultation with another physician (and any test or procedure ordered by, or to be performed by (or under the supervision of) that other physician), constitutes a 'referral' by a 'referring physician'.

"(B) OTHER ITEMS.—Except as provided in subparagraph (C), in the case of another clinical laboratory service, the request or establishment of a plan of care by a physician which includes the provision of the clinical laboratory service constitutes a 'referral' by a 'referring physician'.

"(C) CLARIFICATION RESPECTING CERTAIN SERVICES INTEGRAL TO A CONSULTATION BY CERTAIN SPECIALISTS.—A request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, if such services are furnished by (or under the supervision of) such pathologist pursuant to a consultation requested by another physician does not constitute a 'referral' by a 'referring physician'.".

(b) REQUIRING REQUESTS FOR PAYMENT TO INCLUDE INFORMATION ON REFERRING PHYSICIAN.—Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(q)(1) Each request for payment, or bill submitted, for an item or service furnished by an entity for which payment may be made under this part and for which the entity knows or has reason to believe there has been a referral by a referring physician (within the meaning of section 1877) shall include the name and provider number for the referring physician and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5)).

"(2)(A) In the case of a request for payment for an item or service furnished by an entity under this part on an assignment-related basis and for which information is required to be provided under paragraph (1) but not included, payment may be denied under this part.

"(B) In the case of a request for payment for an item or service furnished by an entity under this part not submitted on an assignment-related basis and for which information is required to be provided under paragraph (1) but not included—

"(i) if the entity knowingly and willfully fails to provide such information promptly upon request of the Secretary or a carrier, the entity may be subject to a civil money penalty in an amount not to exceed $2,000, and

"(ii) if the entity knowingly, willfully, and in repeated cases fails, after being notified by the Secretary of the obligations and requirements of this subsection to provide the information required under paragraph (1), the entity may be subject to exclusion from participation in the programs under this Act for a period not to exceed 5 years, in accordance with the procedures of subsections (c), (f), and (g) of section 1128.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under clause (i) in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

42 USC 1395nn note.

(c) Effective Dates.—

(1) Except as provided in paragraph (2), the amendments made by this section shall become effective with respect to referrals made on or after January 1, 1992.

(2) The reporting requirement of section 1877(f) of the Social Security Act shall take effect on October 1, 1990.

42 USC 1395nn note.

(d) Deadline for Certain Regulations.—The Secretary of Health and Human Services shall publish final regulations to carry out section 1877 of the Social Security Act by not later than October 1, 1990.

42 USC 1395nn note.

(e) GAO Study of Ownership by Referring Physicians.—The Comptroller General shall conduct a study of the ownership of hospitals and other providers of medicare services by referring physicians. Such study shall investigate—

(1) the types of such ownership arrangements and types of services offered under such arrangements,

(2) the returns generally earned by physician investors in such arrangements,

(3) the effect of such arrangements on (A) the utilization of items and services by medicare beneficiaries, (B) medicare expenditures, and (C) other entities providing items and services in the communities served,

(4) the effect of such arrangements on independent providers of similar services, and

(5) the effect on the provision of in-office clinical laboratory services of the limitation on payment for certain referrals contained in section 1877 of the Social Security Act.

Reports.

By not later than February 1, 1991, the Comptroller General shall report to Congress on the results of such study.

(f) QUARTERLY REPORTS TO CONGRESS ON COMPARATIVE UTILIZATION.—The Secretary of Health and Human Services shall submit to the Congress and the Comptroller General, not later than 90 days after the end of each calendar quarter, a report which provides a statistical profile (by State and type of item or service) comparing utilization of items and services by medicare beneficiaries served by entities in which the referring physician has a direct or indirect financial interest and by medicare beneficiaries served by other entities.

42 USC 1395nn note.

SEC. 6205. COSTS OF NURSING AND ALLIED HEALTH EDUCATION.

(a) RECOGNITION OF COSTS OF CERTAIN HOSPITAL-BASED NURSING SCHOOLS.—

(1) IN GENERAL.—(A) The reasonable costs incurred by a hospital in training students of a hospital-based nursing school shall be allowable as reasonable costs under title XVIII of the Social Security Act and reimbursed under such title on the same basis as if they were allowable direct costs of a hospital-operated educational program (other than an approved graduate medical education program) if, before June 15, 1989, and thereafter, the hospital demonstrates that for each year, it incurs at least 50 percent of the costs of training nursing students at such school, the nursing school and the hospital share some common board members, and all instruction is provided at the hospital or, if in another building, a building on the immediate grounds of the hospital.

42 USC 1395x note.

(B) Section 8411(b) of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "1989, 1990, and" and inserting "1986 through".

42 USC 1395b-1 note.

(2) EFFECTIVE DATE.—Paragraph (1)(A) shall apply with respect to cost reporting periods beginning on or after the date of the enactment of this Act and on or before the date on which the Secretary issues regulations pursuant to subsection (b)(2)(A).

42 USC 1395x note.

(b) DELAY IN RECOUPMENT OF CERTAIN NURSING AND ALLIED EDUCATION COSTS.—

42 USC 1395ww note.

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall not, before October 1, 1990, recoup from, or otherwise reduce or adjust payments under title XVIII of the Social Security Act to, hospitals because of alleged overpayments to such hospitals under such title due to a determination that costs which were reported by a hospital on its medicare cost reports relating to approved nursing and allied health education programs were allowable costs and are included in the definition of "operating costs of inpatient hospital services" pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under that section.

(2)(A) Before July 1, 1990, the Secretary shall issue regulations respecting payment of costs described in paragraph (1).

Regulations.

(B) In issuing such regulations—

(i) the Secretary shall allow a comment period of not less than 60 days,

(ii) the Secretary shall consult with the Prospective Payment Assessment Commission, and

Federal Register, publication.

(iii) any final rule shall not be effective prior to October 1, 1990, or 30 days after publication of the final rule in the Federal Register, whichever is later.

(C) Such regulations shall specify—

(i) the relationship required between an approved nursing or allied health education program and a hospital for the program's costs to be attributed to the hospital;

(ii) the types of costs related to nursing or allied health education programs that are allowable by medicare;

(iii) the distinction between costs of approved educational activities as recognized under section 1886(a)(3) of the Social Security Act and educational costs treated as operating costs of inpatient hospital services; and

(iv) the treatment of other funding sources for the program.

SEC. 6206. DISCLOSURE OF ASSUMPTIONS IN ESTABLISHING AAPCC; ELIMINATION OF COORDINATED OPEN ENROLLMENT REQUIREMENT.

(a) DISCLOSURE OF ASSUMPTIONS IN ESTABLISHING AAPCC.—

(1) IN GENERAL.—Section 1876(a)(1) of the Social Security Act (42 U.S.C. 1395mm(a)(1)) is amended by adding at the end the following new subparagraph:

"(F)(i) At least 45 days before making the announcement under subparagraph (A) for a year (beginning with the announcement for 1991), the Secretary shall provide for notice to eligible organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(ii) In each announcement made under subparagraph (A) for a year (beginning with the announcement for 1991), the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for classes of individuals located in each county (or equivalent area) which is in whole or in part within the service area of such an organization.".

42 USC 1395mm note.

(2) NOTICE.—Before July 1, 1990, the Secretary of Health and Human Services shall provide for notice to eligible organizations of the methodology used in making the announcement under section 1876(a)(1)(A) of the Social Security Act for 1990.

(b) ELIMINATION OF COORDINATED OPEN ENROLLMENT REQUIREMENT.—

(1) IN GENERAL.—Section 1876(c)(3)(A) of such Act (42 U.S.C. 1395mm(c)(3)(A)) is amended—

(A) in clause (i), by striking "30-day period" and inserting "period or periods", and

(B) by striking clause (ii) and inserting the following:

Contracts.

"(ii)(I) If a risk-sharing contract under this section is not renewed or is otherwise terminated, eligible organizations with risk-sharing contracts under this section and serving a part of the same service area as under the terminated contract are required to have an open enrollment period for individuals who were enrolled under the terminated contract as of the date of notice of such termination. If a risk-sharing contract under this section is renewed in a manner that discontinues coverage for individuals residing in part of the service area, eligible organizations with risk-sharing contracts under this section and enrolling individuals residing in that part of the service area are required to have an open enrollment period for individuals residing in the part of the service area who were enrolled under the contract as of the date of notice of such discontinued coverage.

"(II) The open enrollment periods required under subclause (I) shall be for 30 days and shall begin 30 days after the date that the Secretary provides notice of such requirement.

"(III) Enrollment under this clause shall be effective 30 days after the end of the open enrollment period, or, if the Secretary determines that such date is not feasible, such other date as the Secretary specifies.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect 60 days after the date of the enactment of this Act.

42 USC 1395mm note.

SEC. 6207. EXTENSION OF EXPIRING AUTHORITIES.

(a) DELAY IN EFFECTIVE DATE IN PHYSICIAN INCENTIVE RULES.—Section 9313(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4016 of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "April 1, 1990" and inserting "April 1, 1991".

42 USC 1320a-7a note.

(b) EXTENSION OF PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Section 4039(d) of the Omnibus Budget Reconciliation Act of 1987, as amended by section 426(e) of the Medicare Catastrophic Coverage Act of 1988, is amended—

42 USC 1395ww note.

(1) by striking "October 15, 1989" and inserting "October 15, 1990", and

(2) by inserting "or in fiscal year 1991" after "fiscal year 1990".

Subpart B—Technical and Miscellaneous Provisions

SEC. 6211. MEDICARE HOSPITAL PATIENT PROTECTION AMENDMENTS.

(a) SCOPE OF HOSPITAL RESPONSIBILITY FOR SCREENING.—Subsection (a) of section 1867 of the Social Security Act (42 U.S.C. 1395dd) is amended by striking "department" the third place it appears and inserting the following: "department, including ancillary services routinely available to the emergency department,".

(b) INFORMED REFUSALS OF TREATMENT OR TRANSFERS.—Subsection (b) of such section is amended—

(1) in paragraph (2)—

(A) by inserting "and informs the individual (or a person acting on the individual's behalf) of the risks and benefits to the individual of such examination and treatment," after "in that paragraph",

(B) by striking "or treatment" and inserting "and treatment", and

(C) by adding at the end the following new sentence: "The hospital shall take all reasonable steps to secure the individual's (or person's) written informed consent to refuse such examination and treatment."; and

(2) in paragraph (3)—

(A) by inserting "and informs the individual (or a person acting on the individual's behalf) of the risks and benefits to the individual of such transfer," after "with subsection (c)", and

(B) by adding at the end the following new sentence: "The hospital shall take all reasonable steps to secure the individual's (or person's) written informed consent to refuse such transfer.".

(c) AUTHORIZATION FOR TRANSFERS.—

(1) INFORMED CONSENT FOR TRANSFERS AT INDIVIDUAL REQUEST.—Subsection (c)(1)(A)(i) of such section is amended by striking "requests that the transfer be effected" and inserting "after being informed of the hospital's obligations under this section and of the risk of transfer, in writing requests transfer to another medical facility".

(2) CLARIFYING PHYSICIAN AUTHORIZATION FOR TRANSFERS.—Subsection (c)(1)(A) of such section is amended—

(A) by striking "or" at the end of clause (i);

(B) in clause (ii)—

(i) by striking ", or other qualified medical personnel when a physician is not readily available in the emergency department,", and

(ii) by inserting "of transfer" after "information available at the time";

(C) by striking "; and" at the end of clause (ii) and inserting ", or", and

(D) by adding at the end the following new clause:

"(iii) if a physician is not physically present in the emergency department at the time an individual is transferred, a qualified medical person (as defined by the Secretary in regulations) has signed a certification described in clause (ii) after a physician (as defined in section 1861(r)(1)), in consultation with the person, has made the determination described in such clause, and subsequently countersigns the certification; and".

(3) STANDARD FOR AUTHORIZING TRANSFER.—Subsection (c)(1)(A)(ii) of such section is amended—

(A) by striking ", based upon the reasonable risks and benefits to the patient, and", and

(B) by striking "individual's medical condition" and inserting "individual and, in the case of labor, to the unborn child".

(4) INCLUSION OF SUMMARY OF RISKS AND BENEFITS IN CERTIFICATE OF TRANSFER.—Subsection (c)(1) of such section is amended by adding at the end the following:

"A certification described in clause (ii) or (iii) of subparagraph (A) shall include a summary of the risks and benefits upon which the certification is based.".

(5) PROVISION OF SERVICES PENDING TRANSFER.—Subsection (c)(2) of such section is amended—

(A) by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively, and

(B) by inserting before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) in which the transferring hospital provides the medical treatment within its capacity which minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child;".

(d) REQUIRING MAINTENANCE OF RECORDS OF TRANSFERS.—Subsection (c)(2)(C) of such section, as redesignated by subsection (c)(5)(A) of this section, is amended—

(1) by striking "provides" and inserting "sends to", and

(2) by striking "with appropriate medical records" and all that follows through "transferring hospital" and inserting "all medical records (or copies thereof), related to the emergency condition for which the individual has presented, available at the time of the transfer, including records related to the individual's emergency medical condition, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of any tests and the informed written consent or certification (or copy thereof) provided under paragraph (1)(A), and the name and address of any on-call physician (described in subsection (d)(2)(C)) who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment".

(e) PHYSICIAN LIABILITY.—Subsection (d)(2) of such subsection is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) Subject to subparagraph (C), any physician who is responsible for the examination, treatment, or transfer of an individual in a participating hospital, including a physician on-call for the care of such an individual, and who knowingly violates a requirement of this section, including a physician who—

"(i) signs a certification under subsection (c)(1)(A) that the medical benefits reasonably to be expected from a transfer to another facility outweigh the risks associated with the transfer, if the physician knew or should have known that the benefits did not outweigh the risks, or

"(ii) misrepresents an individual's condition or other information, including a hospital's obligations under this section,

is subject to a civil money penalty of not more than $50,000 for each such violation and, if the violation is knowing and willful or negligent, to exclusion from participation in this title and State health care programs. The provisions of section 1128A (other than the first and second sentences of subsection (a) and subsection (b)) shall apply to a civil money penalty and exclusion under this subparagraph in the same manner as such provisions apply with respect to a penalty, exclusion, or proceeding under section 1128A(a)."; and

(2) by striking subparagraph (C) and inserting the following:

"(C) If, after an initial examination, a physician determines that the individual requires the services of a physician listed by the hospital on its list of on-call physicians (required to be maintained under section 1866(a)(1)(I)) and notifies the on-call physician and the on-call physician fails or refuses to appear within a reasonable period of time, and the physician orders the transfer of the individual because the physician determines that without the services of the on-call physician the benefits of transfer outweigh the risks of transfer, the physician authorizing the transfer shall not be subject to a penalty under subparagraph (B). However, the previous sentence shall not apply to the hospital or to the on-call physician who failed or refused to appear.".

(f) ADDITIONAL OBLIGATIONS.—Such section is amended by adding at the end the following new subsections:

"(g) NONDISCRIMINATION.—A participating hospital that has specialized capabilities or facilities (such as burn units, shocktrauma units, neonatal intensive care units, or (with respect to rural areas) regional referral centers as identified by the Secretary in regulation) shall not refuse to accept an appropriate transfer of an individual who requires such specialized capabilities or facilities if the hospital has the capacity to treat the individual.

"(h) NO DELAY IN EXAMINATION OR TREATMENT.—A participating hospital may not delay provision of an appropriate medical screening examination required under subsection (a) or further medical examination and treatment required under subsection (b) in order to inquire about the individual's method of payment or insurance status.

"(i) WHISTLEBLOWER PROTECTIONS.—A participating hospital may not penalize or take adverse action against a physician because the physician refuses to authorize the transfer of an individual with an emergency medical condition that has not been stabilized.".

(g) CHANGE IN "PATIENT" TERMINOLOGY.—

(1) Subsection (c) of such section is amended—

(A) by striking "PATIENT" and inserting "INDIVIDUAL", and

(B) by striking "a patient" "the patient", "patient's", and "patients" each place each appears and inserting "an individual", "the individual", "individual's", and "individuals", respectively.

(2) Subsection (e)(5) of such section is amended by striking "a patient" each place it appears and inserting "an individual".

(h) CLARIFICATION OF "EMERGENCY MEDICAL CONDITION" DEFINITION.—

(1) IN GENERAL.—Subsection (e) of such section (as amended by section 6003(g)(3)(D)(xiv)) is amended—

(A) in paragraph (1), by striking "means" and all that follows and inserting the following:

"means—

"(A) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,

"(ii) serious impairment to bodily functions, or

"(iii) serious dysfunction of any bodily organ or part; or

"(B) with respect to a pregnant women who is having contractions—

"(i) that there is inadequate time to effect a safe transfer to another hospital before delivery, or

"(ii) that transfer may pose a threat to the health or safety of the woman or the unborn child.";

(B) by striking paragraph (2);

(C) in paragraph (4)(A)—

(i) by inserting "described in paragraph (1)(A)" after "emergency medical condition",

(ii) by inserting "or occur during" after "likely to result from",

(iii) by inserting before the period at the end the following: ", or, with respect to an emergency medical condition described in paragraph (1)(B), to deliver (including the placenta)";

(D) in paragraph (4)(B)—

(i) by inserting "described in paragraph (1)(A)" after "emergency medical condition",

(ii) by inserting "or occur during" after "to result from", and

(iii) by inserting before the period at the end the following: ", or, with respect to an emergency medical condition described in paragraph (1)(B), that the woman has delivered (including the placenta)"; and

(E) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in the heading, by striking "ACTIVE";

(B) in subsection (a), by striking "or to determine if the individual is in active labor (within the meaning of section (e)(2))";

(C) in the heading of subsection (b), by striking "ACTIVE";

(D) in subsection (b)(1)—

(i) by striking "or is in active labor", and

(ii) in subparagraph (A), by striking "or to provide for treatment of the labor"; and

(E) in subsection (c)(1), by striking "(e)(4)(B)) or is in active labor" and inserting "(e)(3)(B))".

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act, without regard to whether regulations to carry out such amendments have been promulgated by such date.

42 USC 1395dd note.

SEC. 6212. HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) TEMPORARY WAIVER FOR WATTS HEALTH FOUNDATION.—Section 9312(c)(3)(D) of the Omnibus Budget Reconciliation Act of 1986, as added by section 4018(d) of the Omnibus Budget Reconciliation Act of 1987, is amended—

42 USC 1395mm note.

42 USC 1320a-7a note.

(1) in clause (i), by striking "January 1, 1990" and inserting "January 1, 1994"; and

(2) by amending clauses (ii) and (iii) to read as follows:

"(ii) beginning on January 1, 1990, the Secretary of Health and Human Services shall conduct an annual review of the organization to determine the organization's compliance with the quality assurance requirements of section 1876(c)(6) of such Act; and

"(iii) after January 1, 1990, if the organization receives an unfavorable review under clause (ii), the Secretary, after notice to the organization of the unfavorable review and an opportunity to correct any deficiencies identified during the review, may provide for the sanction described in section 1876(f)(3) of such Act effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization that the organization is not in compliance with the requirements of section 1876(c)(6) of such Act.".

(b) LIMIT ON CHARGES FOR EMERGENCY SERVICES AND OUT-OF-AREA COVERAGE.—

(1) IN GENERAL.—Section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(j)(1)(A) In the case of physicians' services described in paragraph (2) which are furnished by a participating physician to an individual enrolled with an eligible organization under this section and enrolled under part B, the participation agreement under section 1842(h)(1) is deemed to provide that the physician will accept as payment in full from the eligible organization the amount that would be payable to the physician under part B and from the individual under such part, if the individual were not enrolled with an eligible organization under this section.

"(B) In the case of physicians' services described in paragraph (2) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with an eligible organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(2) The physicians' services described in this paragraph are physicians' services which—

"(A) are emergency services or out-of-area coverage (described in clauses (iii) and (iv) of subsection (b)(2)(A)), and

"(B) are furnished to an enrollee of an eligible organization under this section by a person who is not under a contract with the organization.".

42 USC 1395mm note. (2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after April 1, 1990.

(c) MAKING AUTHORITY FOR BENEFIT STABILIZATION FUND PERMANENT.—

(1) REPEAL ON LIMITATION ON ESTABLISHMENT OF A FUND.—Section 2350(b) of the Deficit Reduction Act of 1984 (Public Law 98–369) is amended by striking paragraphs (3) and (4).

42 USC 1395mm note. (2) REPEAL ON LIMITING PERIOD OF USE.—Section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)) is amended by striking "and during a period of not longer than four years".

42 USC 1395mm note. (3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 6213. RURAL HEALTH CLINIC SERVICES.

(a) STAFFING REQUIREMENTS; INCLUSION OF NURSE-MIDWIFE SERVICES.—Section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)) is amended—

(1) by striking "; and" at the end of subparagraph (I) and inserting a semicolon;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) has a nurse practitioner, a physician assistant, or a certified nurse-midwife (as defined in subsection (gg)) available to furnish patient care services not less than 50 percent of the time the clinic operates; and".

(b) COVERAGE OF SOCIAL WORKER SERVICES.—Section 1861(aa)(1)(B) of such Act (42 U.S.C. 1395x(aa)(1)(B)) is amended—

(1) by striking "or" before "by"; and

(2) by inserting "or by a clinical social worker (as defined in subsection (hh)(1))," after "Secretary)".

(c) Expansion of Eligible Areas.—The second sentence of section 1861(aa)(2) of such Act is amended— 42 USC 1395x.

(1) by striking "designated by the Secretary" and inserting "designated by the chief executive officer of the State and certified by the Secretary as an area with a shortage of personal health services, or that is designated by the Secretary";

(2) by striking "section 1302(7) of the Public Health Service Act or" and inserting "section 330(b)(3) or 1302(7) of the Public Health Service Act,"; and

(3) by striking "medical care manpower," and inserting the following: "medical care manpower, (III) as a high impact area described in section 329(a)(5) of that Act, or (IV) as an area which includes a population group which the Secretary determines has a health manpower shortage under section 332(a)(1)(B) of that Act,".

42 USC 1395x note.

(d) Effective Date.—The amendments made by subsections (a) through (c) of this section shall take effect October 1, 1989.

State and local governments. 42 USC 1395x note.

(e) Dissemination of Rural Health Clinic Information.—

(1) In general.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Director of the Office of Rural Health Policy, shall disseminate to health care facilities and to the chief executive officer, chief health officer, and chief human services officer of each State, applications and other necessary information to enable such a facility to apply for designation as a rural health clinic for the purposes of titles XVIII and XIX of the Social Security Act.

(2) Definitions.—For purposes of this subsection:

(A) The term "health care facility" means a community health center or a migrant health center, or a hospital, home health agency, or skilled nursing facility participating in a program established under title XVIII or title XIX of the Social Security Act.

(B) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

42 USC 1395x note.

(f) Treatment of Certain Facilities as Rural Health Clinics.—The Secretary of Health and Human Services shall not deny certification of a facility as a rural health clinic under section 1861(aa)(2) of the Social Security Act if the facility is located on an island and would otherwise be qualified to be certified as such a facility but for the requirement that the services of a physician assistant or nurse practitioner be provided in the facility.

(g) Expansion of Functions of Office of Rural Health Policy.—Section 711(b) of the Social Security Act (42 U.S.C. 912(b)) is amended—

(1) in paragraph (2)(A), by striking "health care issues" and inserting "health care issues, including rural mental health, rural infant mortality prevention, and rural occupational safety and preventive health promotion";

(2) in paragraph (2)(C), by striking "rural areas" and inserting "rural areas, including programs providing community-based mental health services, pre-natal and infant care services, and

rural occupational safety and preventive health education and promotion"; and

(3) in paragraph (4), by striking "rural health care" and inserting "rural health care, including activities relating to rural mental health, rural infant mortality, and rural occupational safety and preventive health promotion".

SEC. 6214. DETERMINING ELIGIBILITY OF HOME HEALTH AGENCIES FOR WAIVER OF LIABILITY FOR DENIED CLAIMS.

(a) SCOPE OF WAIVER AND DETERMINATION OF DENIED CLAIM.—Section 1879(f) of the Social Security Act (42 U.S.C. 1395pp(f)) is amended—

(1) in paragraph (1), by striking "with respect to" and all that follows and inserting a period; and

(2) in paragraph (4), by striking "(4) The requirement" and inserting "(4)(A) The requirement", and by adding at the end the following new subparagraph:

"(B) For purposes of determining the rate of denial of bills for a home health agency under subparagraph (A), a bill shall not be considered to be denied until the expiration of the 60-day period that begins on the date such bill is denied by the fiscal intermediary, or, with respect to such a denial for which the agency requests reconsideration, until the fiscal intermediary issues a decision denying payment for such bill.".

(b) MONITORING OF DENIED CLAIMS.—Section 1879(f) of such Act (42 U.S.C. 1395pp(f)) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall monitor the proportion of denied bills submitted by home health agencies for which reconsideration is requested, and shall notify Congress if the proportion of denials reversed upon reconsideration increases significantly.".

42 USC 1395pp note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to determinations for quarters beginning on or after the date of the enactment of this Act.

SEC. 6215. EXTENSION OF AUTHORITY TO CONTRACT WITH FISCAL INTERMEDIARIES AND CARRIERS ON OTHER THAN A COST BASIS.

42 USC 1395h note.

(a) IN GENERAL.—Section 2326(a) of the Deficit Reduction Act of 1984 is amended—

(1) in the first sentence, by striking "fiscal year 1989" and inserting "fiscal year 1993",

(2) in the second sentence, by striking "over a period of time" and inserting "over a 2-year period of time", and

(3) by inserting after the second sentence the following: "In addition, during such period the Secretary may enter into such additional agreements and contracts without regard to such cost reimbursement provisions if the fiscal intermediary or carrier involved and the Secretary agree to waive such provisions, but the Secretary may not take any action that has the effect of requiring that the intermediary or carrier agree to waive such provisions, including requiring such a waiver as a condition for entering into or renewing such an agreement or contract.".

42 USC 1395h note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply beginning with fiscal year 1990.

SEC. 6216. EXPANSION OF RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECT.

(a) Number of Projects.—Section 4038(a) of the Omnibus Budget Reconciliation Act of 1987 is amended by striking "four sponsoring hospitals" and inserting "10 sponsoring hospitals".

42 USC 1395ww note.

(b) Selection of New Projects.—Section 4038(c) of such Act is amended—

(1) by striking "In selecting" and inserting "(1) In selecting";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end the following new paragraph:

"(2) The provisions of paragraph (1) shall not apply with respect to applications submitted as a result of amendments made by section 6216 of the Omnibus Budget Reconciliation Act of 1989.".

(c) Commencement of New Projects.—Section 4038(e) of such Act is amended by inserting "(or the date of the enactment of the Omnibus Budget Reconciliation Act of 1989, in the case of a project conducted as a result of the amendments made by section 6216 of such Act)" after "this Act".

SEC. 6217. INNER-CITY HOSPITAL TRIAGE DEMONSTRATION PROJECT.

42 USC 1395ww note.

(a) Establishment.—The Secretary of Health and Human Services shall establish a demonstration project in a public hospital that is located in a large urban area and that has established a triage system, under which the Secretary shall make payments for 3 years to reimburse the hospital for the reasonable costs of operating the system, including costs—

(1) to train hospital personnel to operate and participate in the system; and

(2) to provide services to patients who might otherwise be denied appropriate and prompt care.

(b) Limitations on Payment.—(1) The Secretary may not make payment under the demonstration project established under subsection (a) for costs that the Secretary determines are not reasonable.

(2) The amount of payment made under the demonstration project during a single year may not exceed $500,000.

SEC. 6218. GAO STUDY OF ADMINISTRATIVE COSTS OF MEDICARE PROGRAM.

(a) Study.—The Comptroller General shall conduct a study of the administrative burden of medicare regulations and program requirements on providers of services, fiscal intermediaries, and carriers, and shall include in such study—

(1) an assessment of current administrative costs to such entities and of trends in such administrative costs since 1982; and

(2) a comparison of the administrative burden to such entities in providing services to individuals who are not medicare beneficiaries.

For purposes of such assessment, administrative costs shall include personnel costs, training costs, the costs of data and communications systems as affected by changes in requirements of the medicare program, and costs to such entities of non-compliance with such requirements resulting from the failure of the Secretary of Health and Human Services to provide entities with adequate notice of changes in program requirements.

(b) Report.—Not later than March 31, 1990, the Comptroller General shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a).

SEC. 6219. PROVISIONS RELATING TO END STAGE RENAL DISEASE SERVICES.

(a) Flexibility in Funding ESRD Network Organizations.—The last sentence of section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)) is amended by striking "network administrative" and all that follows and inserting the following: "organizations (designated under subsection (c)(1)(A)) for such organizations' necessary and proper administrative costs incurred in carrying out the responsibilities described in subsection (c)(2). The Secretary shall provide that amounts paid under the previous sentence shall be distributed to the organizations described in subsection (c)(1)(A) to ensure equitable treatment of all such network organizations. The Secretary in distributing any such payments to network organizations shall take into account—

"(A) the geographic size of the network area;

"(B) the number of providers of end stage renal disease services in the network area;

"(C) the number of individuals who are entitled to end stage renal disease services in the network area; and

"(D) the proportion of the aggregate administrative funds collected in the network area.".

(b) Liability Protection for ESRD Network Organizations and Prohibition Against Disclosure of Information.—Section 1881(c) of such Act (42 U.S.C. 1395rr(c)) is amended by adding at the end the following new paragraph:

"(8) The provisions of sections 1157 and 1160 shall apply with respect to network administrative organizations (including such organizations as medical review boards) with which the Secretary has entered into agreements under this subsection.".

(c) Report on Payment for Erythropoietin (EPO).—Not later than April 1, 1990, the Secretary of Health and Human Services shall submit a report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate and to the Comptroller General on the methodology and rationale used to establish a payment rate for the drug erythropoietin (EPO) under title XVIII of the Social Security Act and shall include in the report (1) a summary of information provided to the Secretary by the manufacturer of EPO and used by the Secretary to establish such rate and (2) a plan for ensuring the appropriateness of such rate in the future.

SEC. 6220. AMENDMENTS RELATING TO THE UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE.

42 USC 1395b note.

(a) Commission Name.—Section 401 of the Medicare Catastrophic Coverage Act of 1988 is amended by inserting before the period at the end the following: "and also to be known as the 'Claude Pepper Commission' or the 'Pepper Commission' ".

42 USC 1395b note.

(b) 4 Vice Chairmen.—Section 403(b) of such Act is amended—

(1) by striking "Vice Chairman" and inserting "Vice Chairmen"; and

(2) by striking "vice chairman" and inserting "4 vice chairmen".

(c) Additional Mailing Privilege.—Section 405(f) of such Act is amended by inserting before the period at the end the following: ", and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code". 42 USC 1395b note.

(d) Printing of Reports.—Section 405 of such Act is further amended by adding at the end the following new subsection:

"(j) Printing.—For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.".

(e) Report Deadlines.—Section 406 of such Act is amended— 42 USC 1395b note.

(1) in each of subsections (a) and (b), by striking ", not later than" and all that follows through "for the Commission,"; and

(2) by adding at the end the following new subsection:

"(c) Deadlines.—The two reports required under this section shall be submitted concurrently by not later than November 9, 1989.".

SEC. 6221. NATIONAL COMMISSION ON CHILDREN.

Section 1139 of the Social Security Act (42 U.S.C. 1320b-9) is amended—

(1) in subsection (d)—

(A) by striking "September 30, 1988" and inserting "March 31, 1990"; and

(B) by striking "March 31, 1990" and inserting "March 31, 1991";

(2) in subsection (e), by striking "September 30, 1990" and inserting "March 31, 1991";

(3) in subsection (j), by striking "such sums" and inserting "through fiscal year 1991, such sums"; and

(4) by adding at the end thereof the following new subsections:

"(k)(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting children. Gifts and property.

"(2) For purposes of Federal income, estate, and gift taxation, money and other property accepted under paragraph (1) of this subsection shall be considered as a gift or bequest to or for the use of the United States.

"(3) Expenditure of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting children and, in conducting such surveys, the Commission shall not be deemed to be an 'agency' for the purpose of section 3502 of title 44, United States Code.".

42 USC 1395x note.

SEC. 6222. CONTINUED USE OF HOME HEALTH WAGE INDEX IN EFFECT PRIOR TO JULY 1, 1989, UNTIL AFTER JULY 1, 1991.

Notwithstanding the requirement of section 1861(v)(1)(L)(iii) of the Social Security Act, the Secretary of Health and Human Services shall, in determining the limits of reasonable costs under title XVIII of the Social Security Act with respect to services furnished by home health agencies, continue to utilize the wage index that was in effect for cost reporting periods beginning before July 1, 1989, until cost reporting periods beginning on or after July 1, 1991.

SEC. 6223. HCFA PERSONNEL STUDY.

(a) In General.—The Secretary of Health and Human Services shall (subject to subsection (c)) enter into an agreement with the National Academy of Public Administration (hereafter in this section referred to as the "Academy") to—

(1) study personnel administration at the Health Care Financing Administration (hereafter in this section referred to as "HCFA");

(2) assess the adequacy of HCFA staffing; and

(3) recommend any needed changes with respect to HCFA staffing to the Secretary of Health and Human Services and the Congress.

(b) Requirements of Study.—In conducting the study, the Academy shall interview management officials at HCFA and other appropriate agencies. The study shall include consideration of—

(1) the average years in service, years to retirement and average age of various categories of HCFA personnel;

(2) the adequacy of HCFA practices to recruit personnel to replace persons who retire or resign and train new employees in the intricacies of HCFA programs;

(3) the grade structure of various categories of HCFA personnel, and the need for additional nonsupervisory positions at the GS-13, GS-14, and GS-15 levels for particularly skilled and expert personnel needed for HCFA to carry out its missions;

(4) the grade structure at HCFA with Federal agencies of similar size and responsibilities;

(5) whether bonus payments or other incentives are needed for HCFA to recruit and retain specialized personnel;

(6) particular problems in hiring personnel that may prevent recruitment and retention of qualified staff;

(7) Office of Personnel Management rules that may be burdensome to the hiring process; and

(8) how HCFA can more appropriately address the priorities of both Congress and the executive branch of Government.

(c) Arrangements for Study.—The Secretary shall request the Academy, acting through appropriate units, to submit an application to conduct the study described in this section. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(d) **Date of Report.**—The results of the study shall be reported to Congress and the Secretary of Health and Human Services no later than December 31, 1990.

SEC. 6224. PEER REVIEW ORGANIZATIONS.

(a) **Peer Review of Non-Physician Services.**—

(1) **In general.**—Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by adding at the end the following:

"If the organization performs such reviews with respect to a type of health care practitioner other than medical doctors, the organization shall establish procedures for the involvement of health care practitioners of that type in such reviews.".

(2) **Effective date.**—The amendment made by paragraph (1) shall apply to contracts entered into after the date of the enactment of this Act. 42 USC 1320c-3 note.

(b) **Provider and Practitioner Right to Reconsideration of PRO Determination before Notice to Beneficiary.**—

(1) **In general.**—Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended—

(A) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)",

(B) in subparagraph (B), by inserting "with respect to services or items disapproved by reason of subparagraph (A) or (C) of paragraph (1)" after "under subparagraph (A)", and

(C) by adding at the end the following new subparagraphs:

"(D) The notification under subparagraph (A) with respect to services or items disapproved by reason of paragraph (1)(B) shall not occur until after—

"(i) the organization has notified the practitioner or provider involved of the determination and of the practitioner's or provider's right to a formal reconsideration of the determination under section 1155, and

"(ii) if the provider or practitioner requests such a reconsideration, the organization has made such a reconsideration.

If a provider or practitioner is provided a reconsideration, such reconsideration shall be in lieu of any subsequent reconsideration to which the provider or practitioner may be otherwise entitled under section 1155, but shall not affect the right of a beneficiary from seeking reconsideration under such section of the organization's determination (after any reconsideration requested by the provider or physician under clause (ii)).

"(E) In the case of services and items disapproved by reason of paragraph (1)(B), the notice to the patient shall state the following: 'In the judgment of the peer review organization, the medical care received was not acceptable under the medicare program. The reasons for the denial have been discussed with your physician and hospital.'.".

(2) **Conforming amendment.**—Section 1155 of such Act (42 U.S.C. 1320c-5) is amended by inserting ", subject to section 1154(a)(3)(D)," before "any practitioner or provider". 42 USC 1320c-4.

(3) **Effective date.**—The amendments made by this subsection shall apply to determinations by utilization and quality control peer review organizations with respect to which prelimi- 42 USC 1320c-3 note.

nary notifications were made under section 1154(a)(3)(B) of the Social Security Act more than 30 days after the date of the enactment of this Act.

PART 4—PART B PREMIUM

SEC. 6301. PART B PREMIUM.

Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)) is amended by striking "1990" each place it appears and inserting "1991".

Subtitle B—Medicaid

PART 1—GENERAL PROVISIONS

SEC. 6401. MANDATORY COVERAGE OF CERTAIN LOW-INCOME PREGNANT WOMEN AND CHILDREN.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(A)(i)—

(A) by striking "or" at the end of subclause (IV),

(B) by striking the semicolon at the end of subclause (V) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(VI) who are described in subparagraph (C) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(B) for such a family;";

(2) in subsection (a)(10)(A)(ii)(IX), by inserting "or clause (i)(VI)" after "clause (i)(IV)";

(3) in subsection (l)(1)—

(A) by striking "and" at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following:

"(C) children who have attained one year of age but have not attained 6 years of age, and

"(D) at the option of the State, children born after September 30, 1983, who have attained 6 years of age but have not attained 7 or 8 years of age (as selected by the State),";

(4) in subsection (l)(2)(A)—

(A) in clause (ii), by amending subclause (II) to read as follows:

"(II) April 1, 1990, 133 percent, or, if greater, the percentage provided under clause (iv)."; and

(B) by adding at the end the following new clause:

"(iv) In the case of a State which, as of the date of the enactment of this clause, has established under clause (i), or has enacted legislation authorizing, or appropriating funds, to provide for, a percentage (of the income official poverty line) that is greater than 133 percent, the percentage provided under clause (ii) for medical assistance on or after April 1, 1990, shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations.";

(5) in subparagraph (B) of subsection (l)(2)—

(A) by striking ", or , if less, the percentage established under subparagraph (A)", and

(B) by redesignating such subparagraph as subparagraph (C);

(6) in subsection (l)(2), by inserting after subparagraph (A) the following new subparagraph:

"(B) For purposes of paragraph (1) with respect to individuals described in subparagraph (C) of such paragraph, the State shall establish an income level which is equal to 133 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(6) in subsection (l)(3)—

(A) by inserting ", (a)(10)(A)(i)(VI)," after "(a)(10)(A)(i)(IV)", and

(B) in subparagraph (C), by striking "or (C)" and inserting ", (C), or (D)";

(7) in subsection (l)(4)—

(A) in subparagraph (A), by inserting "and for children described in subsection (a)(10)(A)(i)(VI)" after "(a)(10)(A)(i)(IV)", and

(B) in subparagraph (B), by inserting "or (a)(10)(A)(i)(VI)" after "(a)(10)(A)(i)(IV)";

(8) in subsection (e)(7), by striking "or (C)" and inserting ", (C), or (D)"; and

(9) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VI)," after "(a)(10)(A)(i)(IV),".

(b) CONFORMING AMENDMENT.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "1902(a)(10)(A)(i)(VI)," after "1902(a)(10)(A)(i)(IV),".

(c) EFFECTIVE DATE.—

42 USC 1396a note.

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6402. PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.

(a) Codification of Adequate Payment Level Provisions.—Section 1902(a)(30)(A) of the Social Security Act (42 U.S.C. 1396a(a)(30)(A)) is amended by inserting before the semicolon at the end the following: "and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area".

(b) Assuring Adequate Payment Levels for Obstetrical and Pediatric Services.—Title XIX of such Act, as amended by section 303 of the Family Support Act of 1988, is amended by redesignating section 1926 as section 1927 and by inserting after section 1925 the following new section:

42 USC 1396s.

"ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES

42 USC 1396r-7.

"Sec. 1926. (a)(1) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to obstetrical services (as defined in paragraph (4)(A)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement, including data relating to how rates established for payments to health maintenance organizations under section 1903(m) take into account such payment rates.

"(2) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to pediatric services (as defined in paragraph (4)(B)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies, by pediatric procedure, the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement, including data relating to how rates established for payments to health maintenance organizations under section 1903(m) take into account such payment rates.

"(3) The Secretary, by not later than 90 days after the date of submission of a plan amendment under paragraph (1) or (2), shall—

"(A) review each such amendment for compliance with the requirement of section 1902(a)(30)(A), and

"(B) approve or disapprove each such amendment.

If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

"(4) In this section:

"(A) The term 'obstetrical services' means services relating to pregnancy covered under the State plan provided by an obstetrician, obstetrician-gynecologist, family practitioner, certified nurse midwife, or certified family nurse practitioner and does not include inpatient or outpatient hospital services or other institutional services.

"(B) The term 'pediatric services' means services covered under the State plan provided by a pediatrician, family practitioner, or certified pediatric nurse practitioner to children under 18 years of age and does not include inpatient or outpatient hospital services or other institutional services.

"(b) For amendments submitted under subsection (a)(1) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the statewide average payment rates under the State plan for obstetrical services furnished by obstetricians, obstetrician-gynecologists, family practitioners, certified family nurse practitioners, and certified nurse midwives, by procedure. Such information shall be provided separately for providers located in each metropolitan statistical area (or similar area) in the State and in the remainder of the State.

"(c) For amendments submitted under subsection (a)(2) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the statewide average payment rates under the State plan for pediatric services furnished by pediatricians, family practitioners, and certified pediatric nurse practitioners by procedure. Such information shall be provided separately for providers located in each metropolitan statistical area (or similar area) in the State and in the remainder of the State

"(d) Nothing in this title (including section 1902(a)(30)(A)) shall be construed as preventing a State from establishing payment levels for obstetrical or pediatric services that are higher for those services furnished in rural areas than those furnished in metropolitan statistical areas.".

(c) PAYMENT FOR CERTAIN SERVICES IN CERTAIN FEDERALLY FUNDED HEALTH CENTERS.—

(1) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended by striking "and" before "(B)" and by inserting before the semicolon at the end the following: ", and (C) ambulatory services offered by a health center receiving funds under section 329, 330, or 340 of the Public Health Service Act to a pregnant woman or individual under 18 years of age".

(2) PAYMENT AMOUNTS.—Section 1902(a)(13)(E) of such Act (42 U.S.C. 1396a(a)(13)(E)) is amended by inserting ", and for payment for services described in section 1905(a)(2)(C) under the plan," after "provided by a rural health clinic under the plan".

(d) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) (except as otherwise provided in such amendments) shall take effect on the date of the enactment of this Act. 42 USC 1396a note.

(2)(A) The amendments made by subsection (c) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6403. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES DEFINED.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(r) The term 'early and periodic screening, diagnostic, and treatment services' means the following items and services:

"(1) Screening services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

"(B) which shall at a minimum include—

"(i) a comprehensive health and developmental history (including assessment of both physical and mental health development),

"(ii) a comprehensive unclothed physical exam,

"(iii) appropriate immunizations according to age and health history,

"(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

"(v) health education (including anticipatory guidance).

"(2) Vision services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.

"(3) Dental services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

"(4) Hearing services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.

"(5) Such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan.

Nothing in this title shall be construed as limiting providers of early and periodic screening, diagnostic, and treatment services to providers who are qualified to provide all of the items and services described in the previous sentence or as preventing a provider that is qualified under the plan to furnish one or more (but not all) of such items or services from being qualified to provide such items and services as part of early and periodic screening, diagnostic, and treatment services. ".

(b) REPORT ON PROVISION OF EPSDT.—Section 1902(a)(43) of such Act (42 U.S.C. 1396a(a)(43)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) reporting to the Secretary (in a uniform form and manner established by the Secretary, by age group and by basis of eligibility for medical assistance, and by not later than April 1 after the end of each fiscal year, beginning with fiscal year 1990) the following information relating to early and periodic screening, diagnostic, and treatment services provided under the plan during each fiscal year:

"(i) the number of children provided child health screening services,

"(ii) the number of children referred for corrective treatment (the need for which is disclosed by such child health screening services),

"(iii) the number of children receiving dental services, and

"(iv) the State's results in attaining the participation goals set for the State under section 1905(r);".

(c) ANNUAL PARTICIPATION GOALS.—Section 1905(r) of such Act, as added by subsection (a), is amended by adding at the end the following: "The Secretary shall, not later than July 1, 1990, and every 12 months thereafter, develop and set annual participation goals for each State for participation of individuals who are covered under the State plan under this title in early and periodic screening, diagnostic, and treatment services.".

(d) CONFORMING AMENDMENTS.—(1) Section 1902(a)(43)(A) of such Act (42 U.S.C. 1396a(a)(43)(A)) is amended by striking "and treatment services as described in section 1905(a)(4)(B)" and inserting "and treatment services as described in section 1905(r)".

(2) Section 1905(a)(4) of such Act (42 U.S.C. 1396d(a)(4)) is amended by amending clause (B) to read as follows: "(B) early and periodic screening, diagnostic, and treatment services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21; and".

42 USC 1396a note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 6404. PAYMENT FOR FEDERALLY-QUALIFIED HEALTH CENTER SERVICES.

(a) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended—

(1) by striking "and" before "(B)",

(2) by striking "subsection (l)" and inserting "subsection (l)(1)", and

(3) by inserting before the semicolon at the end the following: ", and (C) Federally-qualified health center services (as defined in subsection (l)(2)) and any other ambulatory services offered by a Federally-qualified health center and which are otherwise included in the plan".

(b) TERMS DEFINED.—Section 1905(l) of such Act is amended—

(1) by redesignating clauses (1) and (2) as clauses (A) and (B),

(2) by inserting "(1)" after "(l)", and

(3) by adding at the end the following new paragraph:

"(2)(A) The term 'Federally-qualified health center services' means services of the type described in subparagraphs (A) through (C) of section 1861(aa)(1) when furnished to an individual as an outpatient of a Federally-qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in section 1861(aa)(2)(B) is deemed a reference to a Federally-qualified health center or a physician at the center, respectively.

"(B) The term 'Federally-qualified health center' means a facility which—

"(i) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act, or

"(ii) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant.

In applying clause (ii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown.".

(c) PAYMENT AMOUNTS.—Section 1902(a)(13)(E) of such Act (42 U.S.C. 1396a(a)(13)(E)) is amended by striking "section 1905(a)(2)(B) provided by a rural health clinic" and inserting "clause (B) or (C) of section 1905(a)(2)".

42 USC 1396a note.

(d) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the

additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6405. REQUIRED COVERAGE OF NURSE PRACTITIONER SERVICES.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (20), by striking "and";

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified pediatric nurse practitioner or certified family nurse practitioner is under the supervision of, or associated with, a physician or other health care provider; and".

(b) CONFORMING AMENDMENT.—Section 1902(a)(10)(A) of such Act (42 U.S.C. 1396a(a)(10)(A)) is amended by striking "(1) through (5) and (17)" and by inserting "(1) through (5), (17) and (21)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner on or after July 1, 1990. 42 USC 1396a note.

SEC. 6406. REQUIRED MEDICAID NOTICE AND COORDINATION WITH SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

(a) STATE PLAN REQUIREMENTS OF NOTICE AND COORDINATION.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (11), by striking "and" before "(B)" and by inserting before the semicolon at the end the following: ", and (C) provide for coordination of the operations under this title with the State's operations under the special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966";

(2) by striking "and" at the end of paragraph (51);

(3) by striking the period at the end of paragraph (52) and inserting "; and"; and

(4) by inserting after paragraph (52) the following new paragraph:

"(53) provide—

"(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 17 of the Child Nutrition Act of 1966), or children below the age of 5, of the availability of benefits furnished by the special supplemental food program under such section, and

"(B) for referring any such individual to the State agency responsible for administering such program.".

42 USC 1396a note.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on July 1, 1990, without regard to whether regulations to carry out such amendments have been promulgated by such date.

Disadvantaged persons.
42 USC 1396r-7 note.

SEC. 6407. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID TO PREGNANT WOMEN AND CHILDREN NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

Contracts.

(a) In General.—In order to allow States to develop and carry out innovative programs to extend health insurance coverage to pregnant women and children under age 20 who lack insurance and to encourage workers to obtain health insurance for themselves and their children, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with several States submitting applications in accordance with subsection (b) for the purpose of conducting demonstration projects to study the effect on access to health care, private insurance coverage, and costs of health care when such States are allowed to extend benefits under title XIX of the Social Security Act, either directly, in the same manner, or otherwise as alternative assistance authorized in section 1925(b)(4)(D) of such Act, to pregnant women and children under 20 years of age who are not otherwise qualified to receive benefits under such section.

(b) Project Requirements.—(1) Each State applying to participate in the demonstration project under subsection (a) shall assure the Secretary that eligibility shall be limited to pregnant women and children who have not attained 20 years of age who are in families with income below 185 percent of the income official poverty line (referred to in subsection (c)(1)).

(2) The Secretary shall further provide in conducting demonstration projects under this section that, if one or more of such demonstration projects utilizes employer coverage as allowed under section 1925(b)(4)(D) of the Social Security Act, such project shall require an employer contribution.

(c) Premiums.—In the case of pregnant women and children eligible to participate in such demonstration projects whose family income level is—

(1) below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, there shall be no premium charged; and

(2) between 100 and 185 percent of such income official poverty line, there shall be a premium equal to—

(A) an amount based on a sliding scale relating to income, or

(B) 3 percent of the family's average gross monthly earnings,

whichever is less.

(d) **Duration.**—Each demonstration project under this section shall be conducted for a period not to exceed 3 years.

(e) **Waiver.**—The Secretary where he deems appropriate may waive the statewideness requirement described in section 1902(a)(1) of the Social Security Act.

(f) **Limit on Expenditures.**—The Secretary in conducting the demonstration projects described in this section shall limit the amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to $10,000,000 in each of fiscal years 1990, 1991, and 1992.

(g) **Evaluation and Report.**—(1) For each demonstration project conducted under this section, the Secretary shall assure that an evaluation is conducted on the effect of the project with respect to—

(A) access to health care;

(B) private health care insurance coverage;

(C) costs with respect to health care; and

(D) developing feasible premium and cost-sharing policies.

(2) The Secretary shall submit to Congress an interim report containing a summary of the evaluations conducted under paragraph (1) not later than January 1, 1992, and a final report containing such summary together with such further recommendations as the Secretary may determine appropriate not later than January 1, 1994.

SEC. 6408. OTHER MEDICAID PROVISIONS.

(a) **Institutions for Mental Diseases.**—

(1) **Study.**—The Secretary of Health and Human Services shall conduct a study of—

(A) the implementation, under current provisions, regulations, guidelines, and regulatory practices under title XIX of the Social Security Act, of the exclusion of coverage of services to certain individuals residing in institutions for mental diseases, and

(B) the costs and benefits of providing services under title XIX of the Social Security Act in public subacute psychiatric facilities which provide services to psychiatric patients who would otherwise require acute hospitalization.

(2) **Report.**—By not later than October 1, 1990, the Secretary shall submit a report to Congress on the study and shall include in the report recommendations respecting—

(A) modifications in such provisions, regulations, guidelines, and practices, if any, that may be appropriate to accommodate changes that may have occurred since 1972 in the delivery of psychiatric and other mental health services on an inpatient basis to such individuals, and

(B) the continued coverage of services provided in subacute psychiatric facilities under title XIX of the Social Security Act.

(3) **Moratorium on treatment of certain facilities.**—Any determination by the Secretary that Kent Community Hospital Complex in Michigan or Saginaw Community Hospital in Michigan is an institution for mental diseases, for purposes of title XIX of the Social Security Act shall not take effect until 180 days after the date the Congress receives the report required under paragraph (2).

Michigan.

(b) **Extension of Texas Personal Care Services Waiver.**—Section 9523(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 4115(d) of the Omnibus Budget

102 Stat. 768.

Reconciliation Act of 1987 (added by section 411(k)(9)(C) of the Medicare Catastrophic Coverage Act of 1988), is amended by striking "January 1, 1990" and inserting "July 1, 1990".

(c) Hospice Payment for Room and Board.—

(1) In general.—Section 1902(a)(13)(D) of the Social Security Act (42 U.S.C. 1396a(a)(13)(D)) is amended—

(A) by striking "in the same amounts, and using the same methodology, as used" and inserting "in amounts no lower than the amounts, using the same methodology, used", and

(B) by striking "a separate rate may be paid for" and inserting "in the case of", and

(C) by striking "to take into account the room and board furnished by such facility" and inserting "there shall be paid an additional amount, to take into account the room and board furnished by the facility, equal to at least 95 percent of the rate that would have been paid by the State under the plan for facility services in that facility for that individual".

42 USC 1396a note.

(2) Effective date.—The amendments made by paragraph (1) shall apply to services furnished on or after April 1, 1990, without regard to whether or not final regulations have been promulgated by such date to implement such amendments.

(d) Medicare Buy-in for Premiums of Certain Working Disabled.—

(1) In general.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(A) by inserting "(i)" after "(E)",

(B) by striking the semicolon at the end and inserting ", and", and

(C) by adding at the end the following new clause:

"(ii) for making medical assistance available for payment of medicare cost-sharing described in section 1905(p)(3)(A)(i) for qualified disabled and working individuals described in section 1905(s);".

(2) Eligibility.—Section 1905 of such Act (42 U.S.C. 1396d), as amended by section 6403(a) of this subtitle, is amended by adding at the end the following new subsection:

"(s) The term 'qualified disabled and working individual' means an individual—

"(1) who is entitled to enroll for hospital insurance benefits under part A of title XVIII under section 1818A (as added by 6012 of the Omnibus Budget Reconciliation Act of 1989);

"(2) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 200 percent of the official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved;

"(3) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual or a couple (in the case of an individual with a spouse) may have and obtain benefits for supplemental security income benefits under title XVI; and

"(4) who is not otherwise eligible for medical assistance under this title.".

(3) Premium payments required for certain individuals.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), by striking "(E)" and inserting "(E)(i)",

(B) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and

(C) by inserting after subsection (c) the following new subsection:

"(d) With respect to a qualified disabled and working individual described in section 1905(s) whose income (as determined under paragraph (3) of that section) exceeds 150 percent of the official poverty line referred to in that paragraph, the State plan of a State may provide for the charging of a premium (expressed as a percentage of the medicare cost-sharing described in section 1905(p)(3)(A)(i) provided with respect to the individual) according to a sliding scale under which such percentage increases from 0 percent to 100 percent, in reasonable increments (as determined by the Secretary), as the individual's income increases from 150 percent of such poverty line to 200 percent of such poverty line.".

(4) Conforming amendments.—

(A) Section 1905(p)(3) of such Act (42 U.S.C. 1396d(p)(3)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A)(i) premiums under section 1818, and

"(ii) premiums under section 1839,", and

(ii) in subparagraph (A) as so amended, by striking "section 1818" and inserting "section 1818 or 1818A".

(B) Section 1905(p)(1)(A) of such Act is amended by inserting ", but not including an individual entitled to such benefits only pursuant to an enrollment under section 1818A" after "1818".

(C) Section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by inserting ", except with respect to qualified disabled and working individuals (described in section 1905(s))," after "1619(b)(3)".

(5) Effective date.— 42 USC 1396a note.

(A) The amendments made by this subsection apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART 2—TECHNICAL AND MISCELLANEOUS PROVISIONS

SEC. 6411. MISCELLANEOUS MEDICAID TECHNICAL AMENDMENTS.

(a) TECHNICAL CORRECTION TO MEDICARE BUY-IN FOR THE ELDERLY.—

(1) CLARIFICATION WITH RESPECT TO "SECTION 209(B)" STATES.—The first sentence of section 1902(f) of the Social Security Act (42 U.S.C. 1396a(f)) is amended by inserting "and except with respect to qualified medicare beneficiaries, qualified severely impaired individuals, and individuals described in subsection (m)(1)" before ", no State".

42 USC 1396a note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if it had been included in the enactment of the Medicare Catastrophic Coverage Act of 1988.

(b) EXTENSION OF DELAY IN ISSUANCE OF CERTAIN FINAL REGULATIONS.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "May 1, 1989" and inserting "December 31, 1990".

102 Stat. 3804.

(c) DISPROPORTIONATE SHARE HOSPITALS.—

(1) SPECIAL RULE FOR NEW JERSEY UNCOMPENSATED CARE TRUST FUND.—Section 1923(e)(1) of the Social Security Act (42 U.S.C. 1396r-4(e)(1)) is amended—

(A) by inserting "(A)(i)" after "without regard to the requirement of subsection (a) if", and

(B) by striking "and if" and inserting "or (ii) the plan as of January 1, 1987, provided for payment adjustments based on a statewide pooling arrangement involving all acute care hospitals and the arrangement provides for reimbursement of the total amount of uncompensated care provided by each participating hospital, and (B)".

(2) CONFORMING AMENDMENT.—Section 1915(b)(4) of such Act (42 U.S.C. 1396n(b)(4)) is amended by inserting "shall be consistent with the requirements of section 1923 and" after "which standards".

Missouri. Disadvantaged persons.

(3) TRANSITION RULE.—The State of Missouri shall be treated as having met the requirement of section 1902(a)(13)(A) of the Social Security Act (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs) for the period beginning with July 1, 1988, and ending with (and including) June 30, 1990, if the total amount of such payments for such period is not less than the total of such payments otherwise required by law for such period.

42 USC 1396n note.

(4) EFFECTIVE DATE.—The amendment made by paragraph (2) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(d) FRAUD AND ABUSE TECHNICAL AMENDMENTS.—

42 USC 1320a-7.

(1) TREATMENT OF LOSS OF RIGHT TO RENEW LICENSE.—Section 1128(b)(4)(A) of the Social Security Act (42 U.S.C. 1396a-7(b)(4)(A)) is amended by inserting "or the right to apply for or renew such a license" after "lost such a license".

(2) CLARIFICATION WITH RESPECT TO EMERGENCY TREATMENT.—Sections 1862(e)(1) and 1903(i)(2) of such Act (42 U.S.C. 1395y(e)(1), 1396b(i)(2)) are each amended by inserting ", not including items or services furnished in an emergency room of a hospital" after "emergency item or service".

(3) CLARIFICATION OF EXCLUSION WITH RESPECT TO EMPLOYMENT BY HEALTH MAINTENANCE ORGANIZATIONS.—(A) Section 1876(i)(6)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(6)(A)) is amended—

(i) by striking "or" at the end of clause (v),

(ii) by adding "or" at the end of clause (vi), and

(iii) by inserting after clause (vi) the following new clause:

"(vii) in the case of a risk-sharing contract, employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;".

(B) Section 1902(p)(2) of such Act (42 U.S.C. 1396a(p)(2)) is amended—

(i) by striking "or" at the end of subparagraph (A),

(ii) by striking the period at the end of subparagraph (B) and inserting ", or", and

(iii) by adding at the end the following new subparagraph:

"(C) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services.".

(4) EFFECTIVE DATES.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act. 42 USC 1320a-7 note.

(B) The amendments made by paragraph (3) shall apply to employment and contracts as of 90 days after the date of the enactment of this Act. 42 USC 1395mm note.

(e) SPOUSAL IMPOVERISHMENT.—

(1) EQUAL TREATMENT OF TRANSFERS BY COMMUNITY SPOUSE BEFORE INSTITUTIONALIZATION.—Section 1917(c) of the Social Security Act (42 U.S.C. 1396p(c)) is amended—

(A) in paragraph (1), by inserting "or whose spouse," after "an institutionalized individual (as defined in paragraph (3)) who,", and

(B) in paragraph (2)(B)—

(i) by amending clause (i) to read as follows: "(i) to or from (or to another for the sole benefit of) the individual's spouse, or", and

(ii) by striking ", or (iii)" and all that follows through "fair market value".

(2) CLARIFYING APPLICATION TO "SECTION 209(B)" STATES.—Section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by inserting "and section 1924" after "1619(b)(3)".

(3) CLARIFICATION OF APPLICATION OF INCOME RULES TO REDETERMINATIONS.—Subsections (b)(2) and (d)(1) of section 1924

of such Act (42 U.S.C. 1396r-5) are amended by inserting "or redetermined" after "determined".

42 USC 1396a note.

(4) EFFECTIVE DATES.—

(A) SPOUSAL TRANSFERS.—The amendments made by paragraph (1) shall apply to transfers occurring after the date of the enactment of this Act.

(B) OTHER AMENDMENTS.—Except as provided in subparagraph (A), the amendments made by this subsection shall apply as if included in the enactment of section 303 of the Medicare Catastrophic Coverage Act of 1988.

(f) EXTENSION OF WAIVER FOR HEALTH INSURING ORGANIZATION.—The Secretary of Health and Human Services shall continue to waive, through June 30, 1992, the application of section 1903(m)(2)(A)(ii) of the Social Security Act to the Tennessee Primary Care Network, Inc., under the same terms and conditions as applied to such waiver as of July 1, 1989.

42 USC 1396b note.

(g) DAY HABILITATION AND RELATED SERVICES.—

(1) PROHIBITION OF DISALLOWANCE PENDING ISSUANCE OF REGULATIONS.—Except as specifically permitted under paragraph (3), the Secretary of Health and Human Services may not—

(A) withhold, suspend, disallow, or deny Federal financial participation under section 1903(a) of the Social Security Act for day habilitation and related services under paragraph (9) or (13) of section 1905(a) of such Act on behalf of persons with mental retardation or with related conditions pursuant to a provision of its State plan as approved on or before June 30, 1989, or

(B) withdraw Federal approval of any such State plan provision.

(2) REQUIREMENTS FOR REGULATION.—A final regulation described in this paragraph is a regulation, promulgated after a notice of proposed rule-making and a period of at least 60 days for public comment, that—

(A) specifies the types of day habilitation and related services that a State may cover under paragraph (9) or (13) of section 1905(a) of the Social Security Act on behalf of persons with mental retardation or with related conditions, and

(B) any requirements respecting such coverage.

(3) PROSPECTIVE APPLICATION OF REGULATION.—If the Secretary promulgates a final regulation described in paragraph (2) and the Secretary determines that a State plan under title XIX of the Social Security Act does not comply with such regulation, the Secretary shall notify the State of the determination and its basis, and such determination shall not apply to day habilitation and related services furnished before the first day of the first calendar quarter beginning after the date of the notice to the State.

(h) MORATORIUM ON ISSUANCE OF FINAL REGULATION ON MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 1-MEMBER FAMILIES.—The Secretary of Health and Human Services may not issue in final form, before December 31, 1990, any regulation implementing the proposed regulation published on September 26, 1989 (54 Federal Register 39421) insofar as such regulation changes the method for establishing the medically needy income level for single individuals in any State (including the proposed change to section 435.1007(a)(1) of title 42, Code of Federal Regulations).

(i) **Technical Corrections Concerning Transitional Coverage.**—

(1) **Clarification of termination when no child in household.**—Subsections (a)(3)(A) and (b)(3)(A)(i) of section 1925 of the Social Security Act (42 U.S.C. 1396r–6) are each amended by striking "who is" and inserting ", whether or not the child is".

(2) **Effective date for termination of current 9-month extension.**—Section 303(f)(2)(A) of the Family Support Act of 1988 is amended by inserting before the period at the end the following: ", but such amendment shall not apply with respect to families that cease to be eligible for aid under part A of title IV of the Social Security Act before such date". 42 USC 602 note.

(3) **Correction of references.**—Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of the Social Security Act (42 U.S.C. 1396r–6) are each amended by striking "or (v) of section 1905(a)" and inserting "of section 1905(a) or clause (i)(IV), (i)(VI), or (ii)(IX) of section 1902(a)(10)(A)".

(4) **Effective date.**—The amendments made by this subsection shall be effective as if included in the enactment of the Family Support Act of 1988. 42 USC 1396r–6 note.

(j) **Minnesota Prepaid Medicaid Demonstration Project Extension.**—Section 507 of the Family Support Act of 1988 is amended by striking "1990" and inserting "1991". 102 Stat. 2407.

Subtitle C—Maternal and Child Health Block Grant Program

SEC. 6501. INCREASE IN AUTHORIZATION OF APPROPRIATIONS.

(a) **In General.**—Section 501 of the Social Security Act (42 U.S.C. 701) is amended—

(1) by amending subsection (a) to read as follows:

"(a) To improve the health of all mothers and children consistent with the applicable health status goals and national health objectives established by the Secretary under the Public Health Service Act for the year 2000, there are authorized to be appropriated $686,000,000 for fiscal year 1990 and each fiscal year thereafter—

"(1) for the purpose of enabling each State—

"(A) to provide and to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services;

"(B) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low income, at-risk pregnant women, and to promote the health of children by providing preventive and primary care services for low income children;

"(C) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI, to the extent medical assistance for such services is not provided under title XIX; and

"(D) to provide and to promote family-centered, community-based, coordinated care (including care coordination services, as defined in subsection (b)(3)) for children with special health care needs and to facilitate the development of community-based systems of services for such children and their families;

"(2) for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance, research, and training with respect to maternal and child health and children with special health care needs (including early intervention training and services development), for genetic disease testing, counseling, and information development and dissemination programs, for grants (including funding for comprehensive hemophilia diagnostic treatment centers) relating to hemophilia without regard to age, and for the screening of newborns for sickle cell anemia, and other genetic disorders and follow-up services; and

"(3) subject to section 502(b) for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for developing and expanding the following—

"(A) maternal and infant health home visiting programs in which case management services as defined in subparagraphs (A) and (B) of subsection (b)(4), health education services, and related social support services are provided in the home to pregnant women or families with an infant up to the age one by an appropriate health professional or by a qualified nonprofessional acting under the supervision of a health care professional,

"(B) projects designed to increase the participation of obstetricians and pediatricians under the program under this title and under state plans approved under title XIX,

"(C) integrated maternal and child health service delivery systems (of the type described in section 1136 and using, once developed, the model application form developed under section 6506(a) of the Omnibus Budget Reconciliation Act of 1989),

"(D) maternal and child health centers which (i) provide prenatal, delivery, and postpartum care for pregnant women and preventive and primary care services for infants up to age one, and (ii) operate under the direction of a not-for-profit hospital,

"(E) maternal and child health projects to serve rural populations, and

"(F) outpatient and community based services programs (including day care services) for children with special health care needs whose medical services are provided primarily through inpatient institutional care.", and

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) The term 'care coordination services' means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children with special health care needs and their families.

"(4) The term 'case management services' means—

"(A) with respect to pregnant women, services to assure access to quality prenatal, delivery, and postpartum care; and

"(B) with respect to infants up to age one, services to assure access to quality preventive and primary care services.".

(b) CONFORMING AMENDMENT.—Section 505(2)(C)(ii) of such Act (42 U.S.C. 705(2)(C)(ii)) is amended by striking "paragraphs (1) through (3) of section 501(a)" and inserting "subparagraphs (A) through (D) of section 501(a)(1)".

SEC. 6502. ALLOTMENTS TO STATE AND FEDERAL SET-ASIDES.

(a) IN GENERAL.—Section 502 of the Social Security Act (42 U.S.C. 702) is amended—

(1) by amending the first sentence of paragraph (1) of subsection (a) to read as follows: "Of the amounts appropriated under section 501(a) for a fiscal year that are not in excess of $600,000,000, the Secretary shall retain an amount equal to 15 percent for the purpose of carrying out activities described in section 501(a)(2).";

(2) in subsection (a)(3), by inserting "or subsection (b)" after "this subsection";

(3) by striking subsection (c), by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b)(1)(A) Of the amounts appropriated under section 501(a) for a fiscal year in excess of $600,000,000 the Secretary shall retain an amount equal to 12¾ percent thereof for the projects described in subparagraphs (A) through (F) of section 501(a)(3).

"(B) Any amount appropriated under section 501(a) for a fiscal year in excess of $600,000,000 that remains after the Secretary has retained the applicable amount (if any) under subparagraph (A) shall be retained by the Secretary in accordance with subsection (a) and allocated to the States in accordance with subsection (c).

"(2)(A) Of the amounts retained for the purpose of carrying out activities described in section 501(a)(3)(A), (B), (C), (D) and (E), the Secretary shall provide preference to qualified applicants which demonstrate that the activities to be carried out with such amounts shall be in areas with a high infant mortality rate (relative to the average infant mortality rate in the United States or in the State in which the area is located).

"(B) In carrying out activities described in section 501(a)(3)(D), the Secretary shall not provide for developing or expanding a maternal and child health center unless the Secretary has received satisfactory assurances that there will be applied, towards the costs of such development or expansion, non-Federal funds in an amount at least equal to the amount of funds provided under this title toward such development or expansion."; and

(4) in subsection (c), as redesignated by paragraph (2)—

(A) by striking "$478,000,000" and inserting "$600,000,000", and

(B) by amending paragraph (2) to read as follows:

"(2) Each such State shall be allotted for each fiscal year an amount equal to the sum of—

"(A) the amount of the allotment to the State under this subsection in fiscal year 1983, and

"(B) the State's proportion (determined under paragraph (1)(B)(ii)) of the amount by which the allotment available under this subsection for all the States for that fiscal year exceeds the amount that was available under this subsection for allotment for all the States for fiscal year 1983.".

(b) CONFORMING AMENDMENTS.—Sections 503(a) and 508(b) of such Act (42 U.S.C. 703(a), 708(b)) are amended by striking "502(b)" each place it appears and inserting "502(c)".

SEC. 6503. USE OF ALLOTMENT FUNDS AND APPLICATION FOR BLOCK GRANT FUNDS.

(a) EXPANDING USE OF FUNDS AND LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 504 of the Social Security Act (42 U.S.C. 704) is amended—

(1) in subsection (a), by inserting "and including payment of salaries and other related expenses of National Health Service Corps personnel" after "education, and evaluation", and

(2) by adding at the end the following new subsection:

"(d) Of the amounts paid to a State under section 503 from an allotment for a fiscal year under section 502(c), not more than 10 percent may be used for administering the funds paid under such section.".

(b) APPLICATION.—Section 505 of such Act (42 U.S.C. 705) is amended—

(1) by amending the heading to read as follows:

"APPLICATION FOR BLOCK GRANT FUNDS";

(2) by inserting "(a)" after "SEC. 505.";

(3) in the matter before paragraph (1), by inserting "an application (in a standardized form specified by the Secretary) that" after "must prepare and transmit to the Secretary";

(4) by striking paragraph (1) and redesignating paragraph (2) as paragraph (5) and by inserting before paragraph (5), as redesignated, the following new paragraphs:

"(1) contains a statewide needs assessment (to be conducted every 5 years) that shall identify (consistent with the health status goals and national health objectives referred to in section 501(a)) the need for—

"(A) preventive and primary care services for pregnant women, mothers, and infants up to age one;

"(B) preventive and primary care services for children; and

"(C) services for children with special health care needs (as specified in section 501(a)(1)(D));

"(2) includes for each fiscal year—

"(A) a plan for meeting the needs identified by the statewide needs assessment under paragraph (1); and

"(B) a description of how the funds allotted to the State under section 502(c) will be used for the provision and coordination of services to carry out such plan that shall include—

"(i) subject to paragraph (3), a statement of the goals and objectives consistent with the health status goals and national health objectives referred to in section 501(a) for meeting the needs specified in the State plan described in subparagraph (A);

"(ii) an identification of the areas and localities in the State in which services are to be provided and coordinated;

"(iii) an identification of the types of services to be provided and the categories or characteristics of individuals to be served; and

"(iv) information the State will collect in order to prepare reports required under section 506(a);

"(3) except as provided under subsection (b), provides that the State will use—

"(A) at least 30 percent of such payment amounts for preventive and primary care services for children, and

"(B) at least 30 percent of such payment amounts for services for children with special health care needs (as specified in section 501(a)(1)(D));

"(4) provides that a State receiving funds for maternal and child health services under this title shall maintain the level of funds being provided solely by such State for maternal and child health programs at a level at least equal to the level that such State provided for such programs in fiscal year 1989; and"; and

(5) in paragraph (5), as redesignated by paragraph (4) of this subsection—

(A) by striking "a statement of assurances that represents to the Secretary" and inserting "provides";

(B) in subparagraph (A), by striking "will provide" and inserting "will establish";

(C) by amending subparagraph (C)(i) to read as follows:

"(i) special consideration (where appropriate) for the continuation of the funding of special projects in the State previously funded under this title (as in effect before August 31, 1981), and";

(D) in subparagraph (D), by striking "and" at the end;

(E) by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) the State agency (or agencies) administering the State's program under this title will provide for a toll-free telephone number (and other appropriate methods) for the use of parents to access information about health care providers and practitioners who provide health care services under this title and title XIX and about other relevant health and health-related providers and practitioners; and"; and

(F) in subparagraph (F) (as redesignated by subparagraph (E))—

(i) by striking "participate" before clause (i),

(ii) in clause (i), by striking "diagnosis" and inserting "diagnostic",

(iii) in clause (i), by striking "title XIX" and inserting "section 1905(a)(4)(B) (including the establishment of periodicity and content standards for early and periodic screening, diagnostic, and treatment services)",

(iv) by inserting "participate" after "(i)", after "(ii)", and after "(iii)",

(v) by striking "and" at the end of clause (ii),

(vi) by striking the period at the end of clause (iii) and inserting ", and", and

(vii) by inserting after clause (iii) the following new clause:

"(iv) provide, directly and through their providers and institutional contractors, for services to identify pregnant women and infants who are eligible for medical assistance under subparagraph (A) or (B) of section 1902(l)(1) and, once identified, to assist them in applying for such assistance.";

Public information.

(6) by striking the last 2 sentences and inserting the following: "The application shall be developed by, or in consultation with, the State maternal and child health agency and shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during its development and after its transmittal."; and

(7) by adding at the end the following new subsection:

"(b) The Secretary may waive the requirement under subsection (a)(3) that a State's application for a fiscal year provide for the use of funds for specific activities if for that fiscal year—

"(1) the Secretary determines—

"(A) on the basis of information provided in the State's most recent annual report submitted under section 506(a)(1), that the State has demonstrated an extraordinary unmet need for one of the activities described in subsection (a)(3), and

"(B) that the granting of the waiver is justified and will assist in carrying out the purposes of this title; and

"(2) the State provides assurances to the Secretary that the State will provide for the use of some amounts paid to it under section 503 for the activities described in subparagraphs (A) and (B) of subsection (a)(3) and specifies the percentages to be substituted in each of such subparagraphs.".

(c) CONFORMING AMENDMENTS.—(1) Section 502(c) of such Act (42 U.S.C. 702(c)), as redesignated by section 6502(a)(3) of this subtitle, is amended by striking "a description of intended activities and statement of assurances" and inserting "an application".

(2) Section 504(a) of such Act (42 U.S.C. 704(a)) is amended by striking "its description of intended expenditures and statement of assurances" and insert "its application".

(3) Section 506(a)(1)(C) of such Act (42 U.S.C. 706(a)(1)(C)) is amended by striking "description and statement" and inserting "application".

(4) Sections 502(b), 502(d)(1), 503(c), 504(a), 506(a)(1)(C), and 509(a)(6) of such Act (42 U.S.C. 702(b), 702(d)(1), 703(c), 704(a), 706(a)(1)(C), 709(a)(6)) are each amended by striking "505" each place it appears and inserting "505(a)".

SEC. 6504. REPORTS.

(a) STATE REPORTS.—Subsection (a) of section 506 of the Social Security Act (42 U.S.C. 706) is amended—

(1) in paragraph (1)—

(A) by inserting after the first sentence the following: "Each such report shall be prepared by, or in consultation with, the State maternal and child health agency.",

(B) by striking "be in such form and contain such information" and inserting "be in such standardized form and contain such information (including information described in paragraph (2))", and

(C) by striking "and of the progress made toward achieving the purposes of this title, and (C)" and inserting ", (C) to describe the extent to which the State has met the goals and objectives it set forth under section 505(a)(2)(B)(i) and the national health objectives referred to in section 501(a), and (D)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) Each annual report under paragraph (1) shall include the following information:

"(A)(i) The number of individuals served by the State under this title (by class of individuals).

"(ii) The proportion of each class of such individuals which has health coverage.

"(iii) The types (as defined by the Secretary) of services provided under this title to individuals within each such class.

"(iv) The amounts spent under this title on each type of services, by class of individuals served.

"(B) Information on the status of maternal and child health in the State, including—

"(i) information (by county and by racial and ethnic group) on—

"(I) the rate of infant mortality, and

"(II) the rate of low-birth-weight births;

"(ii) information (on a State-wide basis) on—

"(I) the rate of maternal mortality,

"(II) the rate of neonatal death,

"(III) the rate of perinatal death,

"(IV) the number of children with chronic illness and the type of illness,

"(V) the proportion of infants born with fetal alcohol syndrome,

"(VI) the proportion of infants born with drug dependency,

"(VII) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and

"(VIII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B; and

"(iii) information on such other indicators of maternal, infant, and child health care status as the Secretary may specify.

"(C) Information (by racial and ethnic group) on—

"(i) the number of deliveries in the State in the year, and

"(ii) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under the State plan under title XIX in the year.

"(D) Information (by racial and ethnic group) on—

"(i) the number of infants under one year of age who were in the State in the year, and

"(ii) the number of such infants who were provided services under this title or were entitled to benefits under the State plan under title XIX at any time during the year.

"(E) Information on the number of—

"(i) obstetricians,

"(ii) family practitioners,

"(iii) certified family nurse practitioners,

"(iv) certified nurse midwives,

"(v) pediatricians, and

"(vi) certified pediatric nurse practitioners,

who were licensed in the State in the year.

For purposes of subparagraph (A), each of the following shall be considered to be a separate class of individuals: pregnant women, infants up to age one, children with special health care needs, other children under age 22, and other individuals.".

(b) SECRETARIAL REPORT.—Paragraph (3) of subsection (a) of such section, as redesignated by subsection (a)(2) of this section, is amended to read as follows:

"(3) The Secretary shall annually transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that includes—

"(A) a description of each project receiving funding under paragraph (2) or (3) of section 502(a), including the amount of Federal funds provided, the number of individuals served or trained, as appropriate, under the project, and a summary of any formal evaluation conducted with respect to the project;

"(B) a summary of the information described in paragraph (2)(A) reported by States;

"(C) based on information described in paragraph (2)(B) supplied by the States under paragraph (1), a compilation of the following measures of maternal and child health in the United States and in each State:

"(i) Information on—

"(I) the rate of infant mortality, and

"(II) the rate of low-birth-weight births.

Information under this clause shall also be compiled by racial and ethnic group.

"(ii) Information on—

"(I) the rate of maternal mortality,

"(II) the rate of neonatal death,

"(III) the rate of perinatal death,

"(IV) the proportion of infants born with fetal alcohol syndrome,

"(V) the proportion of infants born with drug dependency,

"(VI) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and

"(VII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B.

"(iii) Information on such other indicators of maternal, infant, and child health care status as the Secretary has specified under paragraph (2)(B)(iii).

"(iv) Information (by racial and ethnic group) on—

"(I) the number of deliveries in the State in the year, and

"(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under the State plan under title XIX in the year;

"(D) based on information described in subparagraphs (C), (D), and (E) of paragraph (2) supplied by the States under paragraph (1), a compilation of the following information in the United States and in each State:

"(i) Information on—

"(I) the number of deliveries in the year, and

"(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under a State plan under title XIX in the year.

Information under this clause shall also be compiled by racial and ethnic group.

"(ii) Information on—

"(I) the number of infants under one year of age in the year, and

"(II) the number of such infants who were provided services under this title or were entitled to benefits under a State plan under title XIX at any time during the year.

Information under this clause shall also be compiled by racial and ethnic group.

"(iii) Information on the number of—

"(I) obstetricians,

"(II) family practitioners,

"(III) certified family nurse practitioners,

"(IV) certified nurse midwives,

"(V) pediatricians, and

"(VI) certified pediatric nurse practitioners,

who were licensed in a State in the year; and

"(E) an assessment of the progress being made to meet the health status goals and national health objectives referred to in section 501(a).".

SEC. 6505. FEDERAL ADMINISTRATION AND ASSISTANCE.

Section 509(a) of the Social Security Act (42 U.S.C. 709(a)) is amended—

(1) in paragraph (4) by inserting before the semicolon at the end the following: "and in developing consistent and accurate data collection mechanisms in order to report the information required under section 506(a)(2)";

(2) in paragraph (5) by striking "and" at the end thereof;

(3) in paragraph (6) by striking the period and inserting "; and"; and

(4) by adding at the end thereof the following new paragraphs:

"(7) assisting States in the development of care coordination services (as defined in section 501(b)(3)); and

"(8) developing and making available to the State agency (or agencies) administering the State's program under this title a national directory listing by State the toll-free numbers described in section 505(a)(5)(E).".

SEC. 6506. DEVELOPMENT OF MODEL APPLICATIONS.

(a) For Maternal and Child Assistance Programs.— 42 USC 701 note.

(1) In general.—The Secretary of Health and Human Services shall develop, by not later than one year after the date of the enactment of this Act and in consultation with the Secretary of Agriculture, a model application form for use in applying, simultaneously, for assistance for a pregnant woman or a child less than 6 years of age under maternal and child assistance programs (as defined in paragraph (3)). In developing such form, the Secretary is not authorized to change any requirement with respect to eligibility under any maternal and child assistance program.

Federal Register, publication.

(2) Dissemination of model form.—The Secretary shall provide for publication in the Federal Register of the model application form developed under paragraph (1) and shall send a copy of such form to each State agency responsible for administering a maternal and child assistance program.

(3) Maternal and child assistance program defined.—In this subsection, the term "maternal and child assistance program" means any of the following programs:

(A) The maternal and child health services block grant program under title V of the Social Security Act.

(B) The medicaid program under title XIX of the Social Security Act.

(C) The migrant and community health centers programs under sections 329 and 330 of the Public Health Service Act.

(D) The grant program for the homeless under section 340 of the Public Health Service Act.

(E) The "WIC" program under section 17 of the Child Nutrition Act of 1966.

(F) The head start program under the Head Start Act.

42 USC 1396a note.

(b) For Medicaid Program.—

(1) In general.—The Secretary of Health and Human Services shall, by not later than 1 year after the date of the enactment of this Act, develop a model application form for use in applying for benefits under title XIX of the Social Security Act for individuals who are not receiving cash assistance under part A of title IV of the Social Security Act, and who are not institutionalized. In developing such model application form, the Secretary is not authorized to require that such form be adopted by States as part of their State medicaid plan.

Federal Register, publication.

(2) Dissemination of model form.—The Secretary shall provide for publication in the Federal Register of the model application form developed under paragraph (1), and shall send a copy of such form to each State agency responsible for administering a State medicaid plan.

42 USC 701 note.

SEC. 6507. RESEARCH ON INFANT MORTALITY AND MEDICAID SERVICES.

The Secretary of Health and Human Services shall develop a national data system for linking, for any infant up to age one—

(1) the infant's birth record,

(2) any death record for the infant, and

(3) information on any claims submitted under title XIX of the Social Security Act for health care furnished to the infant or with respect to the birth of the infant.

SEC. 6508. DEMONSTRATION PROJECT ON HEALTH INSURANCE FOR MEDICALLY UNINSURABLE CHILDREN.

42 USC 701 note.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") may conduct not more than 4 demonstration projects to provide health insurance coverage (as defined by the Secretary) through an eligible plan (as defined in subsection (b)) to medically uninsurable children (as defined by the Secretary) under 19 years of age.

(b) ELIGIBILITY.—In this section, the term "eligible plan" means—

(1) a school-based plan;

(2) a plan operated under the direction of a not-for-profit entity offering health insurance; and

(3) a plan operated by a not-for-profit hospital.

(c) REQUIREMENTS.—A demonstration project conducted under subsection (a) may only be conducted under an agreement between the Secretary and an eligible plan which provides that—

(1) health insurance coverage will be made available under the project for at least 2 years, and, if the eligible plan fails to provide such coverage during such period, the Secretary will guarantee the provision of such coverage;

(2) non-Federal funds will be made available to fund the project at a level not less than—

(A) 50 percent in the first year of such agreement,

(B) 65 percent in the second year of such agreement, and

(C) 80 percent in the third or subsequent year of such agreement;

(3) the plan may not—

(A) restrict health insurance coverage on the basis of a child's medical condition, or

(B) impose waiting periods or exclusions for preexisting conditions;

(4) any premium imposed under the project shall be disclosed in advance of enrollment and shall be varied by the income of individuals; and

(5) with respect to a plan which at the time of entering into such agreement is conducting a project similar to the one described in this subsection such plan must maintain its current level of non-Federal funding at its current level unless such level is less than the applicable level described in paragraph (2).

(d) APPLICATION.—No funds may be made available by the Secretary under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this section.

(e) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the effects of the demonstration projects conducted under subsection (a) on—

(A) access to health services by previously medically uninsurable children,

(B) the availability of insurance coverage to participating medically uninsurable children,

(C) the demographic characteristics and health status of participating medically uninsurable children and their families, and

(D) out-of-pocket health care costs for such families.

(2) REPORT.—The Secretary shall submit a report on the demonstration projects conducted under subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate, and shall include in such report a summary of the evaluation described in paragraph (1).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000, for each of fiscal years 1991, 1992, and 1993.

42 USC 701 note.

SEC. 6509. MATERNAL AND CHILD HEALTH HANDBOOK.

(a) IN GENERAL.—

(1) DEVELOPMENT.—The Secretary of Health and Human Services shall develop a maternal and child health handbook in consultation with the National Commission to Prevent Infant Mortality and public and private organizations interested in the health and welfare of mothers and children.

(2) FIELD TESTING AND EVALUATION.—The Secretary shall complete publication of the handbook for field testing by July 1, 1990, and shall complete field testing and evaluation by June 1, 1991.

(3) AVAILABILITY AND DISTRIBUTION.—The Secretary shall make the handbook available to pregnant women and families with young children, and shall provide copies of the handbook to maternal and child health programs (including maternal and child health clinics supported through either title V or title XIX of the Social Security Act, community and migrant health centers under sections 329 and 330 of the Public Health Service Act, the grant program for the homeless under section 340 of the Public Health Service Act, the "WIC" program under section 17 of the Child Nutrition Act of 1966, and the head start program under the Head Start Act) that serve high-risk women. The Secretary shall coordinate the distribution of the handbook with State maternal and child health departments, State and local public health clinics, private providers of obstetric and pediatric care, and community groups where applicable. The Secretary shall make efforts to involve private entities in the distribution of the handbook under this paragraph.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1991, 1992, and 1993, for carrying out the purposes of this section.

42 USC 701 note.

SEC. 6510. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to appropriations for fiscal years beginning with fiscal year 1990.

(b) APPLICATION AND REPORT.—The amendments made—

(1) by subsections (b) and (c) of section 6503 shall apply to payments for allotments for fiscal years beginning with fiscal year 1991, and

(2) by section 6504 shall apply to annual reports for fiscal years beginning with fiscal year 1991.

Subtitle D—Vaccine Compensation Technicals

SEC. 6601. VACCINE INJURY COMPENSATION TECHNICALS.

(a) REFERENCE.—Whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(b) PUBLICATION OF PROGRAM.—Section 2110 (42 U.S.C. 300aa-10) is amended by adding at the end thereof the following:

"(c) PUBLICITY.—The Secretary shall undertake reasonable efforts to inform the public of the availability of the Program.".

(c) PETITIONS.—

(1) Section 2111(a)(1) (42 U.S.C. 300aa-11(a)(1)) is amended—

(A) by striking out "filing of a petition" and inserting in lieu thereof "filing of a petition containing the matter prescribed by subsection (c)", and

(B) by inserting at the end of paragraph (1) "The clerk of the United States Claims Court shall immediately forward the filed petition to the chief special master for assignment to a special master under section 2112(d)(1).".

(2) Section 2111(a)(2)(A)(i) (42 U.S.C. 300aa-11(a)(2)(A)(i)) is amended by striking out "under subsection (b)".

(3) Section 2111(a)(5) (42 U.S.C. 300aa-11(a)(5)) is amended—

(A) in subparagraph (A), by striking out "elect to withdraw such action" and inserting in lieu thereof "petition to have such action dismissed without prejudice or costs", and

(B) in subparagraph (B), by striking out "on the effective date of this part had pending" and inserting in lieu thereof "has pending" and by striking out "does not withdraw the action under subparagraph (A)".

(4) Section 2111(a)(6) (42 U.S.C. 300aa-11(a)(6)) is amended by striking out "the effective date of this part" each place it occurs and inserting in lieu thereof "November 15, 1988".

(5) Section 2111(a) (42 U.S.C. 300aa-11(a)) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following:

"(8) If on the effective date of this part there was pending an appeal or rehearing with respect to a civil action brought against a vaccine administrator or manufacturer and if the outcome of the last appellate review of such action or the last rehearing of such action is the denial of damages for a vaccine-related injury or death, the person who brought such action may file a petition under subsection (b) for such injury or death.".

(6) Section 2111(c) (42 U.S.C. 300aa-11(c)) is amended—

(A) in paragraph (1), by inserting "except as provided in paragraph (3)," after "(1)" and in paragraph (2), by inserting "except as provided in paragraph (3)," after "(2)",

(B) by redesignating paragraph (2) as subsection (d), by expanding the margin of the paragraph to full measure, and by striking out "all available" and inserting in lieu thereof "(d) ADDITIONAL INFORMATION.—A petition may also include other available", by striking out "(including autopsy reports, if any)", and by striking out "and an identification" and all that follows and inserting in lieu thereof a period,

(C) by adding after paragraph (1) the following new paragraphs:

Records.

"(2) except as provided in paragraph (3), maternal prenatal and delivery records, newborn hospital records (including all physicians' and nurses' notes and test results), vaccination records associated with the vaccine allegedly causing the injury, pre- and post-injury physician or clinic records (including all relevant growth charts and test results), all post-injury inpatient and outpatient records (including all provider notes, test results, and medication records), if applicable, a death certificate, and if applicable, autopsy results, and

"(3) an identification of any records of the type described in paragraph (1) or (2) which are unavailable to the petitioner and the reasons for their unavailability.", and

(D) by redesignating paragraph (3), as in effect on the date of the enactment, as subsection (e), by expanding the margin of the paragraph to full measure, and by striking out "appropriate" and inserting in lieu thereof "(e) SCHEDULE.—The petitioner shall submit in accordance with a schedule set by the special master assigned to the petition".

42 USC 300aa-11.

(7) The margin on paragraph (9) of section 2111(a) (as so redesignated) is indented two ems.

(8) Section 2115(e)(2) (42 U.S.C. 300aa-15(e)(2)) is amended—

(A) by striking out "and elected under section 2111(a)(4) to withdraw such action" and inserting in lieu thereof "and petitioned under section 2111(a)(5) to have such action dismissed", and

(B) by striking out "the judgment of the court on such petition may include" and inserting in lieu thereof "in awarding compensation on such petition the special master or court may include".

(d) JURISDICTION.—Section 2112(a) (42 U.S.C. 300aa-12(a)) is amended—

(1) by striking out "shall have jurisdiction (1)" and inserting in lieu thereof "and the United States Claims Court special masters shall, in accordance with this section, have jurisdiction",

(2) by striking out ", and (2) to issue" and inserting in lieu thereof a period and the following: "The United States Claims Court may issue", and

(3) by striking out "deem" and inserting in lieu thereof "deems".

(e) SPECIAL MASTERS ESTABLISHED.—Section 2112 (42 U.S.C. 300aa-12) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and

(2) by inserting after subsection (b) the following new subsection:

Establishment.

"(c) UNITED STATES CLAIMS COURT SPECIAL MASTERS.—

"(1) There is established within the United States Claims Court an office of special masters which shall consist of not more than 8 special masters. The judges of the United States Claims Court shall appoint the special masters, 1 of whom, by designation of the judges of the United States Claims Court, shall serve as chief special master. The appointment and reappointment of the special masters shall be by the concurrence of a majority of the judges of the court.

"(2) The chief special master and other special masters shall be subject to removal by the judges of the United States Claims Court for incompetency, misconduct, or neglect of duty or for physical or mental disability or for other good cause shown.

"(3) A special master's office shall be terminated if the judges of the United States Claims Court determine, upon advice of the chief special master, that the services performed by that office are no longer needed.

"(4) The appointment of any individual as a special master shall be for a term of 4 years, subject to termination under paragraphs (2) and (3). Individuals serving as special masters upon the date of the enactment of this subsection shall serve for 4 years from the date of their original appointment, subject to termination under paragraphs (2) and (3). The chief special master in office on the date of the enactment of this subsection shall continue to serve as chief special master for the balance of the master's term, subject to termination under paragraphs (2) and (3).

"(5) The compensation of the special masters shall be determined by the judges of the United States Claims Court, upon advice of the chief special master. The salary of the chief special master shall be the annual rate of basic pay for level IV of the Executive Schedule, as prescribed by section 5315, title 5, United States Code. The salaries of the other special masters shall not exceed the annual rate of basic pay of level V of the Executive Schedule, as prescribed by section 5316, title 5, United States Code.

"(6) The chief special master shall be responsible for the following:

"(A) Administering the office of special masters and their staff, providing for the efficient, expeditious, and effective handling of petitions, and performing such other duties related to the Program as may be assigned to the chief special master by a concurrence of a majority of the United States Claims Courts judges.

"(B) Appointing and fixing the salary and duties of such administrative staff as are necessary. Such staff shall be subject to removal for good cause by the chief special master.

"(C) Managing and executing all aspects of budgetary and administrative affairs affecting the special masters and their staff, subject to the rules and regulations of the Judicial Conference of the United States. The Conference rules and regulations pertaining to United States magistrates shall be applied to the special masters.

"(D) Coordinating with the United States Claims Court the use of services, equipment, personnel, information, and facilities of the United States Claims Court without reimbursement.

"(E) Reporting annually to the Congress and the judges of the United States Claims Court on the number of petitions filed under section 2111 and their disposition, the dates on which the vaccine-related injuries and deaths for which the petitions were filed occurred, the types and amounts of awards, the length of time for the disposition of petitions, the cost of administering the Program, and recommendations for changes in the Program.".

(f) PARTIES.—Section 2112(b) (42 U.S.C. 300aa–12(b)) is amended—

(1) by amending the first sentence to read as follows: "In all proceedings brought by the filing of a petition under section 2111(b), the Secretary shall be named as the respondent, shall participate, and shall be represented in accordance with section 518(a) of title 28, United States Code.", and

(2) by striking out the second sentence.

(g) SPECIAL MASTER FUNCTIONS.—Section 2112(d) (42 U.S.C. 300aa–12(d)) (as so redesignated by subsection (e)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Following the receipt and filing of a petition under section 2111, the clerk of the United States Claims Court shall forward the petition to the chief special master who shall designate a special master to carry out the functions authorized by paragraph (3).", and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The special masters shall recommend rules to the Claims Court and, taking into account such recommended rules, the Claims Court shall promulgate rules pursuant to section 2071 of title 28, United States Code. Such rules shall—

"(A) provide for a less-adversarial, expeditious, and informal proceeding for the resolution of petitions,

"(B) include flexible and informal standards of admissibility of evidence,

"(C) include the opportunity for summary judgment,

"(D) include the opportunity for parties to submit arguments and evidence on the record without requiring routine use of oral presentations, cross examinations, or hearings, and

"(E) provide for limitations on discovery and allow the special masters to replace the usual rules of discovery in civil actions in the United States Claims Court.

"(3)(A) A special master to whom a petition has been assigned shall issue a decision on such petition with respect to whether compensation is to be provided under the Program and the amount of such compensation. The decision of the special master shall—

"(i) include findings of fact and conclusions of law, and

"(ii) be issued as expeditiously as practicable but not later than 240 days, exclusive of suspended time under subparagraph (C), after the date the petition was filed.

The decision of the special master may be reviewed by the United States Claims Court in accordance with subsection (e).

"(B) In conducting a proceeding on a petition a special master—

"(i) may require such evidence as may be reasonable and necessary, "(ii) may require the submission of such information as may be reasonable and necessary,

"(iii) may require the testimony of any person and the production of any documents as may be reasonable and necessary,

"(iv) shall afford all interested persons an opportunity to submit relevant written information—

"(I) relating to the existence of the evidence described in section 2113(a)(1)(B), or

"(II) relating to any allegation in a petition with respect to the matters described in section 2111(c)(1)(C)(ii), and

"(v) may conduct such hearings as may be reasonable and necessary.

There may be no discovery in a proceeding on a petition other than the discovery required by the special master.

"(C) In conducting a proceeding on a petition a special master shall suspend the proceedings one time for 30 days on the motion of either party. After a motion for suspension is granted, further motions for suspension by either party may be granted by the special master, if the special master determines the suspension is reasonable and necessary, for an aggregate period not to exceed 150 days.

"(4)(A) Except as provided in subparagraph (B), information submitted to a special master or the court in a proceeding on a petition may not be disclosed to a person who is not a party to the proceeding without the express written consent of the person who submitted the information.

Classified information.

"(B) A decision of a special master or the court in a proceeding shall be disclosed, except that if the decision is to include information—

"(i) which is trade secret or commercial or financial information which is privileged and confidential, or

"(ii) which are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy,

and if the person who submitted such information objects to the inclusion of such information in the decision, the decision shall be disclosed without such information.".

(h) ACTION BY THE UNITED STATES CLAIMS COURT.—Section 2112(e) (42 U.S.C. 300aa-12(e)) (as so redesignated by subsection (e)) is amended to read as follows:

"(e) ACTION BY THE UNITED STATES CLAIMS COURT.—

"(1) Upon issuance of the special master's decision, the parties shall have 30 days to file with the clerk of the United States Claims Court a motion to have the court review the decision. If such a motion is filed, the other party shall file a response with the clerk of the United States Claims Court no later than 30 days after the filing of such motion.

"(2) Upon the filing of a motion under paragraph (1) with respect to a petition, the United States Claims Court shall have jurisdiction to undertake a review of the record of the proceedings and may thereafter—

"(A) uphold the findings of fact and conclusions of law of the special master and sustain the special master's decision,

"(B) set aside any findings of fact or conclusion of law of the special master found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and issue its own findings of fact and conclusions of law, or

"(C) remand the petition to the special master for further action in accordance with the court's direction.

The court shall complete its action on a petition within 120 days of the filing of a response under paragraph (1) excluding any days the petition is before a special master as a result of a remand under subparagraph (C). The court may allow not more than 90 days for remands under subparagraph (C).

"(3) In the absence of a motion under paragraph (1) respecting the special master's decision or if the United States Claims Court takes the action described in paragraph (2)(A) with respect to the special master's decision, the clerk of the United States Claims Court shall immediately enter judgment in accordance with the special master's decision.".

(i) APPEALS.—Section 2112(f) (42 U.S.C. 300aa-12(f)) (as so redesignated by subsection (e)) is amended by inserting before the period the following: "within 60 days of the date of entry of the United States Claims Court's judgment with such court of appeals".

(j) DETERMINATION OF ELIGIBILITY AND COMPENSATION.—Section 2113 (42 U.S.C. 300aa-13) is amended—

(1) by striking "court" each place it appears and inserting in lieu thereof "special master or court", and

(2) by inserting before "United States Claims Court" in subsection (c) "special masters of".

(k) TABLE.—

(1) The table contained in section 2114(a) (42 U.S.C. 300aa-14(a)) is amended by striking out "(c)(2)" each place it appears and inserting in lieu thereof "(b)(2)".

(2) Section 2114(b)(3)(B) (42 U.S.C. 300aa-14(b)(3)(B)) is amended by striking out "2111(b)" and inserting in lieu thereof "2111".

(l) COMPENSATION.—

(1) Section 2115(b) (42 U.S.C. 300aa-15(b)) is amended by striking out "may not include" and all that follows and inserting in lieu thereof "may include the compensation described in paragraphs (1)(A) and (2) of subsection (a) and may also include an amount, not to exceed a combined total of $30,000, for—

"(1) lost earnings (as provided in paragraph (3) of subsection (a)),

"(2) pain and suffering (as provided in paragraph (4) of subsection (a)), and

"(3) reasonable attorneys' fees and costs (as provided in subsection (e).".

(2) Section 2115(e) (42 U.S.C. 300aa-15(b)) is amended—

(A) in the first sentence of paragraph (1), by striking out "The judgment of the United States Claims Court on a petition filed under section 2111 awarding compensation shall include an amount to cover" and inserting in lieu thereof "In awarding compensation on a petition filed under section 2111 the special master or court shall also award as part of such compensation an amount to cover",

(B) in the second sentence of paragraph (1), by striking out "civil action" each place it appears and inserting in lieu thereof "petition",

(C) in the second sentence of paragraph (1), by striking out "may include in the judgment an amount to cover" and inserting in lieu thereof "may award an amount of compensation to cover" and by striking out "court" each place it appears and inserting in lieu thereof "special master or court",

(D) in paragraph (2), by striking out "the judgment of the court on such petition may include an amount" and inserting in lieu thereof "the special master or court may also award an amount of compensation", and

(E) in paragraph (3), by striking out "included under paragraph (1) in a judgment on such petition" and inserting in lieu thereof "awarded as compensation by the special master or court under paragraph (1)".

(3) Section 2115(f) (42 U.S.C. 300aa-15(f)) is amended—

(A) in paragraph (3), by inserting after "Payments of compensation" the following: "under the Program and the costs of carrying out the Program",

(B) in paragraph (4)(A), by striking out "made in a lump sum" and by adding after "compensation" the second time it appears the following: "and shall be paid from the trust fund in a lump sum of which all or a portion of the proceeds may be used as ordered by the special master to purchase an annuity or otherwise be used, with the consent of the petitioner, in a manner determined by the special master to be in the best interests of the petitioner", and

(C) in paragraph (4)(B), by striking out "paid in 4 equal annual installments." and inserting in lieu thereof "determined on the basis of the net present value of the elements of compensation and paid in 4 equal annual installments of which all or a portion of the proceeds may be used as ordered by the special master to purchase an annuity or otherwise be used, with the consent of the petitioner, in a manner determined by the special master to be in the best interests of the petitioner. Any reasonable attorneys' fees and costs shall be paid in a lump sum.".

(4) Section 2115 (42 U.S.C. 300aa-15) is amended—

(A) in subsection (g), by inserting "(other than under title XIX of the Social Security Act)" after "State health benefits program", and

(B) in subsection (h), by inserting before the period at the end the following: ", except that this subsection shall not apply to the provision of services or benefits under title XIX of the Social Security Act".

(5) Section 2115(i)(1) (42 U.S.C. 300aa-15(i)(1)) is amended by striking out "(i)" and inserting in lieu thereof "(j)".

(6) The first sentence of section 2115(j) (42 U.S.C. 300aa-15(j)) is amended by striking out "and" after "1991," and by inserting before the period a comma and "$80,000,000 for fiscal year 1993".

(m) TECHNICALS.—

(1) Section 2116(c) (42 U.S.C. 300aa-16(c)) is amended by striking out "2111(b)" and inserting in lieu thereof "2111".

(2) Section 2117(b) (42 U.S.C. 300aa-17(b)) is amended by striking out "the trust fund which has been established to provide compensation under the Program" and inserting in lieu thereof "the Vaccine Injury Compensation Trust Fund established under section 9510 of the Internal Revenue Code of 1986".

(n) ELECTION.—

(1) Section 2121(a) (42 U.S.C. 300aa-21(a)) is amended—

(A) in the first sentence, by striking out "After the judgment of the United States Claims Court under section 2111 on a petition filed for compensation under the Program for a vaccine-related injury or death has become final, the person who filed the petition shall file with the court" and inserting in lieu thereof: "After judgment has been entered by the United States Claims Court or, if an appeal is taken under section 2112(f), after the appellate court's mandate is issued, the petitioner who filed the petition under section 2111 shall file with the clerk of the United States Claims Court", and

(B) by amending the last sentence to read as follows: "For limitations on the bringing of civil actions, see section 2111(a)(2).".

(2) Section 2121(b) (42 U.S.C. 300aa-21(b)) is amended—

(A) in the first sentence, by striking out "within 365 days" and inserting in lieu thereof "within 420 days (excluding any period of suspension under section 2112(d) and excluding any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C))", and

(B) by amending the second sentence to read as follows: "An election shall be filed under this subsection not later than 90 days after the date of the entry of the Claims Court's judgment or the appellate court's mandate with respect to which the election is to be made.".

(o) Trial.—Section 2123(e) (42 U.S.C. 300aa-23(e)) is amended—

(1) by striking out "finding" and inserting in lieu thereof "finding of fact or conclusion of law",

(2) by striking out "master appointed by such court" and inserting in lieu thereof "special master", and

(3) by striking out "a district court of the United States" and inserting in lieu thereof "the United States Claims Court and subsequent appellate review".

(p) Vaccine Information.—Section 2126(c)(9) (42 U.S.C. 300aa-26(c)(9)) is amended to read as follows:

"(9) a summary of—

"(A) relevant Federal recommendations concerning a complete schedule of childhood immunizations, and

"(B) the availability of the Program, and".

(q) Safer Vaccines.—Section 2127 (42 U.S.C. 300aa-27) is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following:

Establishment. "(b) Task Force.—

"(1) The Secretary shall establish a task force on safer childhood vaccines which shall consist of the Director of the National Institutes of Health, the Commissioner of the Food and Drug Administration, and the Director of the Centers for Disease Control.

"(2) The Director of the National Institutes of Health shall serve as chairman of the task force.

"(3) In consultation with the Advisory Commission on Childhood Vaccines, the task force shall prepare recommendations to the Secretary concerning implementation of the requirements of subsection (a).".

(r) Authorizations.—

(1) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the Vaccine Injury Compensation Trust Fund established under section 9510(c) of the Internal Revenue Code of 1986 to the Secretary of Health and Human Services $1,500,000 for each of the fiscal years 1990 and 1991.

(2) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the Vaccine Injury Compensation Trust Fund to the Attorney General $1,500,000 for each of the fiscal years 1990 and 1991.

(3) For administering part A of subtitle 2 of title XXI of the Public Health Service Act there is authorized to be appropriated from the Vaccine Injury Compensation Trust Fund to the United States Claims Court $1,500,000 for each of the fiscal years 1990 and 1991.

42 USC 300aa-10 note.

(s) APPLICABILITY AND EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply as follows:

(A) Petitions filed after the date of enactment of this section shall proceed under the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act as amended by this section.

(B) Petitions currently pending in which the evidentiary record is closed shall continue to proceed under the Program in accordance with the law in effect before the date of the enactment of this section, except that if the United States Claims Court is to review the findings of fact and conclusions of law of a special master on such a petition, the court may receive further evidence in conducting such review.

(C) Petitions currently pending in which the evidentiary record is not closed shall proceed under the Program in accordance with the law as amended by this section.

All pending cases which will proceed under the Program as amended by this section shall be immediately suspended for 30 days to enable the special masters and parties to prepare for proceeding under the Program as amended by this section. In determining the 240-day period prescribed by section 2112(d) of the Public Health Service Act, as amended by this section, or the 420-day period prescribed by section 2121(b) of such Act, as so amended, any period of suspension under the preceding sentence shall be excluded.

(2) The amendments to section 2115 of the Public Health Service Act shall apply to all pending and subsequently filed petitions.

Reports.
42 USC 300aa-1 note.

(t) STUDY.—The Secretary of Health and Human Services shall evaluate the National Vaccine Injury Compensation Program under title XXI of the Public Health Service Act and shall report the results of such study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than January 1, 1992.

SEC. 6602. SEVERABILITY.

Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended to read as follows:

"**SEC. 322. SEVERABILITY.**

"(a) In General.—Except as provided in subsection (b), if any provision of title XXI of the Public Health Service Act, as added by section 311(a), or the application of such a provision to any person or circumstance is held invalid by reason of a violation of the Constitution, such title XXI shall be considered invalid.

"(b) Special Rule.—If any amendment made by section 6601 of the Omnibus Budget Reconciliation Act of 1989 to title XXI of the Public Health Service Act or the application of such a provision to any person or circumstance is held invalid by reason of the Constitution, subsection (a) shall not apply and such title XXI of the Public Health Service Act without such amendment shall continue in effect.".

Subtitle E—Provisions With Respect to COBRA Continuation Coverage

PART 1—EXTENSION OF COVERAGE FOR DISABLED EMPLOYEES

SEC. 6701. EXTENSION, UNDER INTERNAL REVENUE CODE, OF COVERAGE FROM 18 TO 29 MONTHS FOR THOSE WITH A DISABILITY AT TIME OF TERMINATION OF EMPLOYMENT.

(a) In General.—Paragraph (2)(B) of section 4980B(f) of the Internal Revenue Code of 1986, as added by section 3011(a) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647), (relating to maximum required period of continuation coverage), is amended—

(1) in clause (i) by adding after and below subclause (IV) the following new sentence:

"In the case of a qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in paragraph (3)(B), any reference in subclause (I) or (II) to 18 months with respect to such event is deemed a reference to 29 months, but only if the qualified beneficiary has provided notice of such determination under paragraph (6)(C) before the end of such 18 months."; and

(2) by adding at the end the following new clause:

"(v) Termination of extended coverage for disability.—In the case of a qualified beneficiary who is disabled at the time of a qualifying event described in paragraph (3)(B), the month that begins more than 30 days after the date of the final determination under title II or XVI of the Social Security Act that the qualified beneficiary is no longer disabled.".

(b) Increased Premium Permitted.—Paragraph (2)(C) of such section (relating to premium requirements) is amended by adding at the end the following new sentence: "In the case of an individual described in the last sentence of subparagraph (B)(i), any reference in clause (i) of this subparagraph to '102 percent' is deemed a reference to '150 percent' for any month after the 18th month of continuation coverage described in subclause (I) or (II) of subparagraph (B)(i).".

(c) NOTICES REQUIRED.—Paragraph (6)(C) of such section (relating to certain notices to plan administrator) is amended by inserting before the period at the end the following: "and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in paragraph (3)(B) is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days of the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event occurred before, on, or after such date.

42 USC 4980B note.

SEC. 6702. EXTENSION, UNDER PUBLIC HEALTH SERVICE ACT, OF COVERAGE FROM 18 TO 29 MONTHS FOR THOSE WITH A DISABILITY AT TIME OF TERMINATION OF EMPLOYMENT.

(a) IN GENERAL.—Section 2202(2) of the Public Health Service Act (42 U.S.C. 300bb-2) is amended—

(1) in subparagraph (A), by adding after and below clause (iii) the following new sentence:

"In the case of an individual who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 2203(2), any reference in clause (i) or (ii) to 18 months with respect to such event is deemed a reference to 29 months, but only if the qualified beneficiary has provided notice of such determination under section 2206(3) before the end of such 18 months."; and

(2) by adding at the end the following new subparagraph:

"(E) TERMINATION OF EXTENDED COVERAGE FOR DISABILITY.—In the case of a qualified beneficiary who is disabled at the time of a qualifying event described in section 2203(2), the month that begins more than 30 days after the date of the final determination under title II or XVI of the Social Security Act that the qualified beneficiary is no longer disabled.".

(b) INCREASED PREMIUM PERMITTED.—Section 2202(3) of the Public Health Service Act (42 U.S.C. 300bb-3) is amended in the matter after and below subparagraph (B) by adding at the end the following new sentence: "In the case of an individual described in the last sentence of paragraph (2)(A), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '150 percent' for any month after the 18th month of continuation coverage described in clause (i) or (ii) of paragraph (2)(A).".

42 USC 300bb-2.

(c) NOTICES REQUIRED.—Section 2206(3) of such Act (42 U.S.C. 300bb-6(3)) (relating to certain notices to plan administrator) is amended by inserting before the comma the following: "and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 2203(2) is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled".

42 USC 300bb-2 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event occurred before, on, or after such date.

SEC. 6703. EXTENSION, UNDER ERISA, OF COVERAGE FROM 18 TO 29 MONTHS FOR THOSE WITH A DISABILITY AT TIME OF TERMINATION OF EMPLOYMENT.

29 USC 1162.

(a) **IN GENERAL.**—Section 602(2) of the Employee Retirement Income Security Act of 1974 (42 U.S.C. 1162(2)) is amended—

(1) in subparagraph (A), by adding after and below clause (iv) the following new sentence:

"In the case of an individual who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 603(2), any reference in clause (i) or (ii) to 18 months with respect to such event is deemed a reference to 29 months, but only if the qualified beneficiary has provided notice of such determination under section 606(3) before the end of such 18 months."; and

(2) by adding at the end the following new subparagraph:

"(E) **TERMINATION OF EXTENDED COVERAGE FOR DISABILITY.**—In the case of a qualified beneficiary who is disabled at the time of a qualifying event described in section 603(2), the month that begins more than 30 days after the date of the final determination under title II or XVI of the Social Security Act that the qualified beneficiary is no longer disabled.".

29 USC 1162.

(b) **INCREASED PREMIUM PERMITTED.**—Section 602(3) of such Act (42 U.S.C. 1162(3)) is amended in the matter after and below subparagraph (B) by adding at the end the following new sentence: "In the case of an individual described in the last sentence of paragraph (2)(A), any reference in subparagraph (A) of this paragraph to '102 percent' is deemed a reference to '150 percent' for any month after the 18th month of continuation coverage described in clause (i) or (ii) of paragraph (2)(A).".

29 USC 1166.

(c) **NOTICES REQUIRED.**—Section 606(3) of such Act (42 U.S.C. 1166(3)) (relating to certain notices to plan administrator) is amended by inserting before the comma the following: "and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 603(2) is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled".

29 USC 1162 note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event occurred before, on, or after such date.

PART 2—MISCELLANEOUS AMENDMENTS

SEC. 6801. PUBLIC HEALTH SERVICE ACT.

(a) **SECTION 2201.**—

(1) SUBSECTION (B).—Section 2201(b) of the Public Health Service Act (42 U.S.C. 300bb-1(b)) is amended by striking the matter after and below paragraph (2).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to years beginning after December 31, 1986.

42 USC 300bb-1 note.

(b) SECTION 2202.—

(1) PARAGRAPH (2)(A).—

(A) IN GENERAL.—Section 2202(2)(A) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(A)) is amended by adding at the end the following new clause:

"(iv) QUALIFYING EVENT INVOLVING MEDICARE ENTITLEMENT.—In the case of an event described in section 2203(4) (without regard to whether such event is a qualifying event), the period of coverage for qualified beneficiaries other than the covered employee for such event or any subsequent qualifying event shall not terminate before the close of the 36-month period beginning on the date the covered employee becomes entitled to benefits under title XVIII of the Social Security Act."

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to plan years beginning after December 31, 1989.

42 USC 300bb-2 note.

(2) PARAGRAPH (2)(D).—

(A) IN GENERAL.—Section 2202(2)(D) of the Public Health Service Act (42 U.S.C. 300bb-2(2)(D)) is amended—

(i) in the heading for such paragraph, by striking "ELIGIBILITY" and inserting "ENTITLEMENT"; and

(ii) in clause (i), by inserting before the comma the following: "which does not contain any exclusion or limitation with respect to any preexisting condition of such beneficiary".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to—

42 USC 300bb-2 note.

(i) qualifying events occurring after December 31, 1989, and

(ii) in the case of qualified beneficiaries who elected continuation coverage after December 31, 1988, the period for which the required premium was paid (or was attempted to be paid but was rejected as such).

(3) PARAGRAPH (3).—

(A) IN GENERAL.—Section 2202(3) of the Public Health Service Act (42 U.S.C. 300bb-2(3)) is amended by amending the matter after and below subparagraph (B) to read as follows:

"In no event may the plan require the payment of any premium before the day which is 45 days after the day on which the qualified beneficiary made the initial election for continuation coverage.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to plan years beginning after December 31, 1989.

42 USC 300bb-2 note.

(c) SECTION 2208.—

(1) PARAGRAPH (2).—Section 2208(2) of the Public Health Service Act (42 U.S.C. 300bb-8(2)) is amended by striking "the individual's employment or previous employment with an employer" and inserting "the performance of services by the

individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of the Internal Revenue Code of 1986)".

42 USC 300bb-8 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to plan years beginning after December 31, 1989.

Subtitle F—Technical and Miscellaneous Provisions Relating to Nursing Home Reform

SEC. 6901. MEDICARE AND MEDICAID TECHNICAL CORRECTIONS RELATING TO NURSING HOME REFORM.

(a) MORATORIUM ON IMPLEMENTATION OF FEBRUARY 2, 1989 REGULATION.—The regulations promulgated by the Secretary of Health and Human Services on February 2, 1989 (54 Federal Register 5315 et seq., relating to requirements for long-term care facilities) shall not be effective before October 1, 1990, insofar as such regulations apply to skilled nursing facilities and intermediate care facilities under title XVIII or XIX of the Social Security Act.

(b) NURSE AIDE TRAINING.—

(1) DELAY IN REQUIREMENT.—Sections 1819(b)(5) and 1919(b)(5) of the Social Security Act (42 U.S.C. 1395i-3(b)(5), 1396r(b)(5)) are each amended—

(A) in subparagraph (A), by striking "January 1, 1990" and inserting "October 1, 1990", and

(B) in subparagraph (B), by striking "July 1, 1989" and "January 1, 1990" and inserting "January 1, 1990" and "October 1, 1990", respectively.

42 USC 1395i-3 note.

(2) PUBLICATION OF PROPOSED REGULATIONS.—The Secretary of Health and Human Services shall issue proposed regulations to establish the requirements described in sections 1819(f)(2) and 1919(f)(2) of the Social Security Act by not later than 90 days after the date of the enactment of this Act.

(3) REQUIREMENTS FOR TRAINING AND EVALUATION PROGRAMS.—Sections 1819(f)(2)(A) and 1919(f)(2)(A) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A), 1396r(f)(2)(A)) are each amended—

(A) in clause (i)(I), by inserting "care of cognitively impaired residents," after "social service needs,";

(B) in clause (ii), by striking "cognitive, behavioral and social care" and inserting "recognition of mental health and social service needs, care of cognitively impaired residents";

(C) by striking the period at the end of clause (iii) and inserting "; and"; and

(D) by adding at the end the following new clause:

"(iv) requirements, under both such programs, that—

"(I) provide procedures for determining competency that permit a nurse aide, at the nurse aide's option, to establish competency through procedures or methods other than the passing of a written examination and to have the competency evaluation conducted at the nursing facility at which the aide is (or will be) employed (unless the facility is described in subparagraph (B)(iii)(I)), and

"(II) prohibit the imposition on a nurse aide of any charges (including any charges for textbooks and other required course materials and any charges for the competency evaluation) for either such program.".

(4) DELAY AND TRANSITION IN 75-HOUR TRAINING PROGRAM REQUIREMENT.—

(A) Section 1919(f)(2)(B)(ii) of such Act (42 U.S.C. 1396r(f)(2)(B)(ii)) is amended by striking "January 1, 1989" and inserting "July 1, 1989".

42 USC 1395i-3 note.

(B) A nurse aide shall be considered to satisfy the requirement of sections 1819(b)(5)(A) and 1919(b)(5)(A) of the Social Security Act (of having completed a training and competency evaluation program approved by a State under section 1819(e)(1)(A) or 1919(e)(1)(A) of such Act), if such aide would have satisfied such requirement as of July 1, 1989, if a number of hours (not less than 60 hours) were substituted for "75 hours" in sections 1819(f)(2) and 1919(f)(2) of such Act, respectively, and if such aide had received, before July 1, 1989, at least the difference in the number of such hours in supervised practical nurse aide training or in regular in-service nurse aide education.

(C) A nurse aide shall be considered to satisfy the requirement of sections 1819(b)(5)(A) and 1919(b)(5)(A) of the Social Security Act (of having completed a training and competency evaluation program approved by a State under section 1819(e)(1)(A) or 1919(e)(1)(A) of such Act), if such aide was found competent (whether or not by the State), before July 1, 1989, after the completion of a course of nurse aide training of at least 100 hours duration.

(D) With respect to the nurse aide competency evaluation requirements described in sections 1819(b)(5)(A) and 1919(b)(5)(A) of the Social Security Act, a State may waive such requirements with respect to an individual who can demonstrate to the satisfaction of the State that such individual has served as a nurse aide at one or more facilities of the same employer in the State for at least 24 consecutive months before the date of the enactment of this Act.

(5) CLARIFICATION OF TEMPORARY ENHANCED FEDERAL FINANCIAL PARTICIPATION FOR NURSE AIDE TRAINING BY NURSING FACILITIES.—

(A) IN GENERAL.—Section 1903(a)(2)(B) of such Act (42 U.S.C. 1396b(a)(2)(B)) is amended—

(i) by inserting "(including the costs for nurse aides to complete such competency evaluation programs)" after "1919(e)(1)", and

(ii) by inserting "(or, for calendar quarters beginning on or after July 1, 1988, and before July 1, 1990, the lesser of 90 percent or the Federal medical assistance percentage plus 25 percentage points)" after "50 percent".

42 USC 1396b note.

(B) NO ALLOCATION OF COSTS BEFORE OCTOBER 1, 1990.—In making payments under section 1903(a)(2)(B) of the Social Security Act for amounts expended for nurse aide training and competency evaluation programs, and competency evaluation programs, described in section 1919(e)(1) of such Act, in the case of activities conducted before October 1, 1990, the Secretary of Health and Human Services shall not take into account, or allocate amounts on the basis of, the proportion of residents of nursing facilities that is entitled to benefits under title XVIII or XIX of such Act.

42 USC 1395i-3 note.

(6) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) EXCEPTION.—The amendments made by paragraph (3) shall apply to nurse aide training and competency evaluation programs, and nurse aide competency evaluation programs, offered on or after the end of the 90-day period beginning on the date of the enactment of this Act, but shall not affect competency evaluations conducted under programs offered before the end of such period.

42 USC 1396r note.

(c) PUBLICATION OF PROPOSED REGULATIONS RESPECTING PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW.—The Secretary of Health and Human Services shall issue proposed regulations to establish the criteria described in section 1919(f)(8)(A) of the Social Security Act by not later than 90 days after the date of the enactment of this Act.

(d) OTHER AMENDMENTS.—

(1) CLARIFICATION OF APPLICABILITY OF ENFORCEMENT RULES TO DUALLY-CERTIFIED FACILITIES.—Section 1919(h)(8) of the Social Security Act (42 U.S.C. 1396r(h)(8)) is amended by adding at the end the following: "The provisions of this subsection shall apply to a nursing facility (or portion thereof) notwithstanding that the facility (or portion thereof) also is a skilled nursing facility for purposes of title XVIII.".

42 USC 1396b note.

(2) CLARIFICATION OF FEDERAL MATCHING RATE FOR SURVEY AND CERTIFICATION ACTIVITIES.—During the period before October 1, 1990, the Federal percentage matching payment rate under section 1903(a) of the Social Security Act for so much of the sums expended under a State plan under title XIX of such Act as are attributable to compensation or training of personnel responsible for inspecting public or private skilled nursing or intermediate care facilities to individuals receiving medical assistance to determine compliance with health or safety standards shall be 75 percent.

New York.

(3) MEDICARE WAIVER AUTHORITY FOR CERTAIN DEMONSTRATION PROJECTS.—(A) The Secretary of Health and Human Services may waive the survey and certification requirements of sections 1819(g) and 1864(a) of the Social Security Act to the extent the Secretary determines is required to carry out a demonstration project in New York (relating to testing an approved alternative survey and certification process), which has been approved as of the date of the enactment of this Act. Such waiver shall apply only during the period beginning on November 1, 1988, and ending on October 31, 1991.

Wisconsin.

(B) The Secretary also may waive the survey and certification requirements described in subparagraph (A) to the extent the Secretary determines is required to carry out a pilot demonstration project in Wisconsin (relating to testing an approved alternative survey and certification process). Such waiver shall apply only during the one-year period beginning on the date of implementation of the project.

(4) MISCELLANEOUS TECHNICAL CORRECTIONS.—Sections 1819 and 1919 of the Social Security Act are each further amended—

42 USC 1395i-3, 1396r.

(A) in subsection (c)(1)(A)(ii)(II), by striking the closing parenthesis after "Secretary" and inserting a closing parenthesis after "obtained",

(B) in subsection (c)(1)(A)(v)(I), by striking "accommodations" and inserting "accommodation",

(C) in subsection (f)(2)(A)(i), by striking ", content of the curriculum" and inserting "and content of the curriculum", and

(D) in subsection (h)(2)(C) (of section 1819) and in subsection (h)(3)(D) (of section 1919), by inserting "after the effective date of the findings" after "6 months".

(5) ADDITIONAL MISCELLANEOUS TECHNICAL CORRECTIONS.—Section 1910 of such Act (42 U.S.C. 1396i) is amended—

(A) by inserting "AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED" after "RURAL HEALTH CLINICS",

(B) in subsection (b)(1), by striking "skilled nursing or intermediate care facility" and inserting "intermediate care facility for the mentally retarded",

(C) in subsection (b)(1), as amended by section 411(l)(6)(F) of the Medicare Catastrophic Coverage Act of 1988, by striking "1902(a)(28) or section 1919 or section 1905(c)" and inserting "1902(a)(31) or section 1905(d)", and

(D) in subsections (b)(1) and (b)(2), by striking "skilled nursing facility or intermediate care facility" each place it appears and inserting "intermediate care facility for the mentally retarded".

(6) EFFECTIVE DATE.—

42 USC 1395i-3.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) EXCEPTION.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

Subtitle G—Public Health Service Act

SEC. 6911. ESTABLISHMENT OF AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

For amendments establishing the Agency for Health Care Policy and Research and creating a new title IX in the Public Health Service Act, see section 6103 of this Act.

TITLE VII—REVENUE MEASURES

Revenue Reconciliation Act of 1989.
26 USC 1 note.

SEC. 7001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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Subtitle A—Extension of Expiring Tax Provisions

SEC. 7101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) Extension.—

(1) In general.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1988" and inserting "September 30, 1990".

26 USC 127 note.

(2) Special rule.—In the case of any taxable year beginning in 1990, only amounts paid before October 1, 1990, by the employer for educational assistance for the employee shall be taken into account in determining the amount excluded under section 127 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(b) Certain Otherwise Taxable Employer-Provided Educational Assistance May Be Excludible as Working Condition

FRINGE.—Subsection (h) of section 132 is amended by adding at the end thereof the following new paragraph: 26 USC 132.

"(9) APPLICATION OF SECTION TO OTHERWISE TAXABLE EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.—Amounts which would be excludible from gross income under section 127 but for subsection (a)(2) thereof or the last sentence of subsection (c)(1) thereof shall be excluded from gross income under this section if (and only if) such amounts are a working condition fringe."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988. 26 USC 127 note.

SEC. 7102. EMPLOYER-PROVIDED GROUP LEGAL SERVICES.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (e) of section 120 (relating to group legal services plans) is amended by striking "ending after December 31, 1988" and inserting "beginning after September 30, 1990".

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1990, only amounts paid before October 1, 1990, by the employer for coverage for the employee, his spouse, or his dependents under a qualified group legal services plan for periods before October 1, 1990, shall be taken into account in determining the amount excluded under section 120 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year. 26 USC 120 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after December 31, 1988. 26 USC 120 note.

SEC. 7103. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) EXTENSION.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "December 31, 1989" and inserting "September 30, 1990".

(b) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking "and 1989" and inserting "1989, and 1990". 26 USC 51 note.

(c) MODIFICATION OF REQUEST FOR CERTIFICATION.—

(1) IN GENERAL.—Paragraph (16) of section 51(d) is amended by adding at the end thereof the following new subparagraph:

"(C) EMPLOYER REQUEST MUST SPECIFY POTENTIAL BASIS FOR ELIGIBILITY.—In any request for a certification of an individual as a member of a targeted group, the employer shall—

"(i) specify each subparagraph (but not more than 2) of paragraph (1) by reason of which the employer believes that such individual is such a member, and

"(ii) certify that a good faith effort was made to determine that such individual is such a member."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after December 31, 1989. 26 USC 51 note.

SEC. 7104. EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "December 31, 1989" each place it appears and inserting "September 30, 1990".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 is amended by striking "for any calendar year after 1989" and inserting "for any period after September 30, 1990".

SEC. 7105. EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

Subparagraph (B) of section 144(a)(12) is amended by striking "substituting '1989' for '1986' " and inserting "substituting 'September 30, 1990' for 'December 31, 1986' ".

SEC. 7106. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, AND OCEAN THERMAL PROPERTY.

The table contained in section 46(b)(2)(A) (relating to energy percentage) is amended by striking "Dec. 31, 1989" in clauses (viii), (ix), and (x) and inserting "Sept. 30, 1990".

SEC. 7107. EXTENSION OF SPECIAL RULES FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) EXTENSION.—

(1) GENERAL RULE.—Paragraph (5) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "December 31, 1989" and inserting "September 30, 1990".

26 USC 162 note.

(2) SPECIAL RULE.—In the case of any taxable year beginning in 1990—

(A) only amounts paid before October 1, 1990, by the individual for insurance coverage for periods before October 1, 1990, shall be taken into account in determining the amount deductible under section 162(l) of the Internal Revenue Code of 1986 with respect to such individual for such taxable year, and

(B) for purposes of section 162(l)(2)(A) of such Code, the amount of the earned income described in such paragraph taken into account for such taxable year shall be the amount which bears the same ratio to the total amount of such earned income as the number of months in such taxable year ending before October 1, 1990, bears to the number of months in such taxable year.

(b) SPECIAL RULE FOR CERTAIN S CORPORATION SHAREHOLDERS.—Subsection (l) of section 162 (as amended by subsection (a)) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF CERTAIN S CORPORATION SHAREHOLDERS.—This subsection shall apply in the case of any individual treated as a partner under section 1372(a), except that—

"(A) for purposes of this subsection, such individual's wages (as defined in section 3121) from the S corporation shall be treated as such individual's earned income (within the meaning of section 401(c)(1)), and

"(B) there shall be such adjustments in the application of this subsection as the Secretary may by regulations prescribe."

26 USC 162 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 7108. EXTENSION AND MODIFICATION OF LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (n) of section 42 (relating to low-income housing credit) is amended to read as follows—

"(n) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for any calendar year after 1990—

"(A) clause (i) of subsection (h)(3)(C) shall not apply, and

"(B) subsection (h)(4) shall not apply to any building placed in service after 1990.

"(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before 1990 if—

"(A) the bonds with respect to such building are issued before 1990,

"(B) such building is constructed, reconstructed, or rehabilitated by the taxpayer,

"(C) more than 10 percent of the reasonably anticipated cost of such construction, reconstruction, or rehabilitation has been incurred as of January 1, 1990, and some of such cost is incurred on or after such date, and

"(D) such building is placed in service before January 1, 1992."

(2) SPECIAL RULE.—In the case of calendar year 1990, section 42(h)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subsection (b)(1)) shall be applied by substituting "$.9375" for "$1.25". 26 USC 42 note.

(b) 1-YEAR CARRYOVER OF UNUSED CREDIT AUTHORITY, ETC.—

(1) IN GENERAL.—Section 42(h)(3) (relating to housing credit dollar amount for agencies) is amended by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively, and by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) STATE HOUSING CREDIT CEILING.—The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

"(i) $1.25 multiplied by the State population,

"(ii) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

"(iii) the amount of State housing credit ceiling returned in the calendar year, plus

"(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (ii), the unused State housing credit ceiling for any calendar year is the excess (if any) of the amount described in clause (i) over the aggregate housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any project which does not become a qualified low-income housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is cancelled by mutual consent of the housing credit agency and the allocation recipient.

"(D) UNUSED HOUSING CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

"(i) IN GENERAL.—The unused housing credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

"(ii) UNUSED HOUSING CREDIT CARRYOVER.—For purposes of this subparagraph, the unused housing credit carryover of a State for any calendar year is the excess (if any) of the unused State housing credit ceiling for such year (as defined in subparagraph (C)(ii)) over the excess (if any) of—

"(I) the aggregate housing credit dollar amount allocated for such year, over

"(II) the amount described in clause (i) of subparagraph (C).

"(iii) FORMULA FOR ALLOCATION OF UNUSED HOUSING CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

"(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

"(I) which allocated its entire State housing credit ceiling for the preceding calendar year, and

"(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii)."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (E) of section 42(h)(5) is amended by striking "subparagraph (E)" and inserting "subparagraph (F)".

(B) Paragraph (6) of section 42(h) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(c) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF MINIMUM LONG-TERM COMMITMENT TO LOW-INCOME HOUSING.—

(1) IN GENERAL.—Section 42(h) (relating to limitation on aggregate credit allowable with respect to projects located in a State) is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) BUILDINGS ELIGIBLE FOR CREDIT ONLY IF MINIMUM LONG-TERM COMMITMENT TO LOW-INCOME HOUSING.—

"(A) IN GENERAL.—No credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year.

"(B) EXTENDED LOW-INCOME HOUSING COMMITMENT.—For purposes of this paragraph, the term 'extended low-income housing commitment' means any agreement between the taxpayer and the housing credit agency—

"(i) which requires that the applicable fraction (as defined in subsection (c)(1)) for the building for each taxable year in the extended use period will not be less than the applicable fraction specified in such agreement,

"(ii) which allows individuals who meet the income limitation applicable to the building under subsection (g) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement of clause (i),

"(iii) which is binding on all successors of the taxpayer, and

"(iv) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

"(C) ALLOCATION OF CREDIT MAY NOT EXCEED AMOUNT NECESSARY TO SUPPORT COMMITMENT.—

"(i) IN GENERAL.—The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building, including any increase in such fraction pursuant to the application of subsection (f)(3) if such increase is reflected in an amended low-income housing commitment.

"(ii) BUILDINGS FINANCED BY TAX-EXEMPT BONDS.—If paragraph (4) applies to any building the amount of credit allowed in any taxable year may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building. Such commitment may be amended to increase such fraction.

"(D) EXTENDED USE PERIOD.—For purposes of this paragraph, the term 'extended use period' means the period—

"(i) beginning on the 1st day in the compliance period on which such building is part of a qualified low-income housing project, and

"(ii) ending on the later of—

"(I) the date specified by such agency in such agreement, or

"(II) the date which is 15 years after the close of the compliance period.

"(E) EXCEPTIONS IF FORECLOSURE OR IF NO BUYER WILLING TO MAINTAIN LOW-INCOME STATUS.—

"(i) IN GENERAL.—The extended use period for any building shall terminate—

"(I) on the date the building is acquired by foreclosure (or instrument in lieu of foreclosure), or

"(II) on the last day of the period specified in subparagraph (I) if the housing credit agency is unable to present during such period a qualified contract for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low-income building.

Subclause (II) shall not apply to the extent more stringent requirements are provided in the agreement or in State law.

"(ii) EVICTION, ETC. OF EXISTING LOW-INCOME TENANTS NOT PERMITTED.—The termination of an extended use period under clause (i) shall not be construed to permit before the close of the 3-year period following such termination—

"(I) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or

"(II) any increase in the gross rent with respect to such unit.

"(F) QUALIFIED CONTRACT.—For purposes of subparagraph (E), the term 'qualified contract' means a bona fide contract to acquire (within a reasonable period after the contract is entered into) the low-income portion of the building for an amount not less than the applicable fraction (specified in the extended low-income housing commitment) of—

"(i) the sum of—

"(I) the outstanding indebtedness secured by, or with respect to, the building,

"(II) the adjusted investor equity in the building, plus

"(III) other capital contributions not reflected in the amounts described in subclause (I) or (II), reduced by

"(ii) cash distributions from (or available for distribution from) the project.

Regulations.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the manipulation of the amount determined under the preceding sentence.

"(G) ADJUSTED INVESTOR EQUITY.—

"(i) IN GENERAL.—For purposes of subparagraph (E), the term 'adjusted investor equity' means, with respect to any calendar year, the aggregate amount of cash taxpayers invested with respect to the project increased by the amount equal to—

"(I) such amount, multiplied by

"(II) the cost-of-living adjustment for such calendar year, determined under section 1(f)(3) by substituting the base calendar year for 'calendar year 1987'.

An amount shall be taken into account as an investment in the project only to the extent there was an obligation to invest such amount as of the beginning of the credit period and to the extent such amount is reflected in the adjusted basis of the project.

"(ii) COST-OF-LIVING INCREASES IN EXCESS OF 5 PERCENT NOT TAKEN INTO ACCOUNT.—Under regulations prescribed by the Secretary, if the CPI for any calendar year (as defined in section 1(f)(4)) exceeds the CPI for the preceding calendar year by more than 5 percent, the CPI for the base calendar year shall be increased such that such excess shall never be taken into account under clause (i).

"(iii) BASE CALENDAR YEAR.—For purposes of this subparagraph, the term 'base calendar year' means the calendar year with or within which the 1st taxable year of the credit period ends.

"(H) LOW-INCOME PORTION.—For purposes of this paragraph, the low-income portion of a building is the portion of such building equal to the applicable fraction specified in the extended low-income housing commitment for the building.

"(I) PERIOD FOR FINDING BUYER.—The period referred to in this subparagraph is the 1-year period beginning on the date (after the 14th year of the compliance period) the taxpayer submits a written request to the housing credit agency to find a person to acquire the taxpayer's interest in the low-income portion of the building.

"(J) SALES OF LESS THAN LOW-INCOME PORTION OF BUILDING.—In the case of a sale or exchange of only a portion of the low-income portion of the building, only the same portion (as the portion sold or exchanged) of the amount determined under subparagraph (F) shall be taken into account thereunder.

"(K) EFFECT OF NONCOMPLIANCE.—If, during a taxable year, there is a determination that an extended low-income housing agreement was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

"(L) PROJECTS WHICH CONSIST OF MORE THAN 1 BUILDING.—The application of this paragraph to projects which consist of more than 1 building shall be made under regulations prescribed by the Secretary."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 42(b)(3) is amended by striking "subsection (h)(6))" and inserting "subsection (h)(7)".

(d) CREDIT FOR ACQUISITION OF EXISTING BUILDING TO APPLY ONLY IF BUILDING TO BE REHABILITATED; INCREASE IN REQUIRED REHABILITATION EXPENDITURES.—

(1) IN GENERAL.—Subparagraph (B) of section 42(d)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end thereof the following new clause:

"(iv) except as provided in subsection (f)(5), a credit is allowable under subsection (a) by reason of subsection (e) with respect to the building."

(2) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—Subsection (f) of section 42 (relating to definition and special rules relating to credit period), as amended by subtitle H, is amended by adding at the end thereof the following new paragraph:

"(5) CREDIT PERIOD FOR EXISTING BUILDINGS NOT TO BEGIN BEFORE REHABILITATION CREDIT ALLOWED.—

"(A) IN GENERAL.—The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

"(B) ACQUISITION CREDIT ALLOWED FOR CERTAIN BUILDINGS NOT ALLOWED A REHABILITATION CREDIT.—

"(i) IN GENERAL.—In the case of a building described in clause (ii)—

"(I) subsection (d)(2)(B)(iv) shall not apply, and

"(II) the credit period for such building shall not begin before the taxable year which would be the

1st taxable year of the credit period for rehabilitation expenditures with respect to the building under the modifications described in clause (ii)(II).

"(ii) BUILDING DESCRIBED.—A building is described in this clause if—

"(I) a waiver is granted under subsection (d)(6)(C) with respect to the acquisition of the building, and

"(II) a credit would be allowed for rehabilitation expenditures with respect to such building if subsection (e)(3)(A)(ii)(I) did not apply and if subsection (e)(3)(A)(ii)(II) were applied by substituting '$2,000' for '$3,000'."

(3) INCREASE IN REQUIRED REHABILITATION EXPENDITURES.—Paragraph (3) of section 42(e) is amended by redesignating subparagraph (B) as subparagraph (C) and by striking so much of such paragraph as precedes such subparagraph and inserting the following:

"(3) MINIMUM EXPENDITURES TO QUALIFY.—

"(A) IN GENERAL.—Paragraph (1) shall apply to rehabilitation expenditures with respect to any building only if—

"(i) the expenditures are allocable to 1 or more low-income units or substantially benefit such units, and

"(ii) the amount of such expenditures during any 24-month period meets the requirements of whichever of the following subclauses requires the greater amount of such expenditures:

"(I) The requirement of this subclause is met if such amount is not less than 10 percent of the adjusted basis of the building (determined as of the 1st day of such period and without regard to paragraphs (2) and (3) of section 1016(a)).

"(II) The requirement of this subclause is met if the qualified basis attributable to such amount, when divided by the number of low-income units in the building, is $3,000 or more.

"(B) EXCEPTION FROM 10 PERCENT REHABILITATION.—In the case of a building acquired by the taxpayer from a governmental unit, at the election of the taxpayer, subparagraph (A)(ii)(I) shall not apply and the credit under this section for such rehabilitation expenditures shall be determined using the percentage applicable under subsection (b)(2)(B)(ii)."

(e) CHANGES IN RULES RELATING TO RENT RESTRICTIONS.—

(1) RENT RESTRICTION DETERMINED ON BASIS OF NUMBER OF BEDROOMS.—

(A) Section 42(g)(2) is amended by redesignating subparagraph (C) as subparagraph (E) and by inserting after subparagraph (B) the following new subparagraphs:

"(C) IMPUTED INCOME LIMITATION APPLICABLE TO UNIT.—For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

"(i) In the case of a unit which does not have a separate bedroom, 1 individual.

"(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii).

"(D) TREATMENT OF UNITS OCCUPIED BY INDIVIDUALS WHOSE INCOMES RISE ABOVE LIMIT.—

"(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding an increase in the income of the occupants of a low-income unit above the income limitation applicable under paragraph (1), such unit shall continue to be treated as a low-income unit if the income of such occupants initially met such income limitation.

"(ii) NEXT AVAILABLE UNIT MUST BE RENTED TO LOW-INCOME TENANT IF INCOME RISES ABOVE 140 PERCENT OF INCOME LIMIT.—If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1), clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation."

(B) Subparagraph (A) of section 42(g)(2) is amended by striking "the income limitation under paragraph (1) applicable to individuals occupying such unit" and inserting "the imputed income limitation applicable to such unit"

(2) REDUCTION IN AREA MEDIAN GROSS INCOME NOT TO REQUIRE REDUCTION OF RENT.—Subparagraph (A) of section 42(g)(2) (relating to rent-restricted units) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation applicable for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income housing project."

(3) EXCLUSION WITH RESPECT TO CONTINUING CARE FACILITIES NOT TO APPLY IN DETERMINING INCOME.—Subparagraph (B) of section 142(d)(2) is amended by adding at the end thereof the following:

"Section 7872(g) shall not apply in determining the income of individuals under this subparagraph."

(f) ADDITIONAL BUILDINGS ELIGIBLE FOR WAIVER OF 10-YEAR PERIOD APPLICABLE TO ACQUISITIONS OF EXISTING BUILDINGS.—Paragraph (6) of section 42(d) is amended by redesignating subparagraph (C) as subparagraph (E) and by inserting after subparagraph (B) the following new subparagraphs:

"(C) LOW-INCOME BUILDINGS WHERE MORTGAGE MAY BE PREPAID.—A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to a federally-assisted building described in clause (ii) or (iii) of subparagraph (B) if—

"(i) the mortgage on such building is eligible for prepayment under subtitle B of the Emergency Low

Income Housing Preservation Act of 1987 or under section 502(c) of the Housing Act of 1949 at any time within 1 year after the date of the application for such a waiver,

"(ii) the appropriate Federal official certifies to the Secretary that it is reasonable to expect that, if the waiver is not granted, such building will cease complying with its low-income occupancy requirements, and

"(iii) the eligibility to prepay such mortgage without the approval of the appropriate Federal official is waived by all persons who are so eligible and such waiver is binding on all successors of such persons.

"(D) BUILDINGS ACQUIRED FROM INSURED DEPOSITORY INSTITUTIONS IN DEFAULT.—A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution."

(g) INCREASE IN CREDIT FOR BUILDINGS IN HIGH COST AREAS.—Paragraph (5) of section 42(d) (relating to eligible basis) is amended by adding at the end thereof the following new subparagraph:

"(D) INCREASE IN CREDIT FOR BUILDINGS IN HIGH COST AREAS.—

"(i) IN GENERAL.—In the case of any building located in a qualified census tract or difficult development area which is designated for purposes of this subparagraph—

"(I) in the case of a new building, the eligible basis of such building shall be 130 percent of such basis determined without regard to this subparagraph, and

"(II) in the case of an existing building, the rehabilitation expenditures taken into account under subsection (e) shall be 130 percent of such expenditures determined without regard to this subparagraph.

"(ii) QUALIFIED CENSUS TRACT.—

"(I) IN GENERAL.—The term 'qualified census tract' means any census tract in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income.

"(II) LIMIT ON MSA'S DESIGNATED.—The portion of a metropolitan statistical area which may be designated for purposes of this subparagraph shall not exceed an area having 20 percent of the population of such metropolitan statistical area.

"(III) DETERMINATION OF AREAS.—For purposes of this clause, each metropolitan statistical area shall be treated as a separate area and all nonmetropolitan areas in a State shall be treated as 1 area.

"(iii) DIFFICULT DEVELOPMENT AREAS.—

"(I) IN GENERAL.—The term 'difficult development areas' means any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, and utility costs relative to area median gross income.

"(II) LIMIT ON AREAS DESIGNATED.—The portions of metropolitan statistical areas which may be designated for purposes of this subparagraph shall not exceed an aggregate area having 20 percent of the population of such metropolitan statistical areas. A comparable rule shall apply to nonmetropolitan areas.

"(iv) SPECIAL RULES AND DEFINITIONS.—For purposes of this subparagraph—

"(I) population shall be determined on the basis of the most recent decennial census for which data are available,

"(II) area median gross income shall be determined in accordance with subsection (g)(4),

"(III) the term 'metropolitan statistical area' has the same meaning as when used in section 143(k)(2)(B), and

"(IV) the term 'nonmetropolitan area' means any county (or portion thereof) which is not within a metropolitan statistical area."

(h) CHANGES IN RULES RELATING TO BUILDINGS FOR WHICH CREDIT MAY BE ALLOWED.—

(1) SINGLE-ROOM OCCUPANCY UNITS RENTED ON A MONTHLY BASIS.—Subparagraph (B) of section 42(i)(3) (relating to low income unit) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis."

(2) SPECIAL NEEDS HOUSING.—Subparagraph (B) of section 42(g)(2) (relating to gross rent) is amended—

(A) in clause (i), by striking "and" at the end,

(B) in clause (ii), by striking the period at the end and inserting ", and", and

(C) by adding at the end the following:

"(iii) does not include any fee for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the tenant of the unit) by any governmental program of assistance (or by an organization described in section 501(c)(3) and exempt from tax under section 501(a)) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services.

For purposes of clause (iii), the term 'supportive service' means any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped. In the case of a single-room occupancy unit or a building described in subsection (i)(3)(B)(iii), such term includes any service provided to assist tenants in locating and retaining permanent housing."

(3) SCATTERED SITE PROJECTS.—Section 42(g) (relating to qualified low-income housing project) is amended by adding at the end thereof the following new paragraph:

"(7) SCATTERED SITE PROJECTS.—Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units."

(4) OWNER-OCCUPIED BUILDINGS HAVING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT WHERE DEVELOPMENT PLAN.—Section 42(i)(3) (defining low-income unit), as amended by subtitle H, is amended by adding at the end thereof the following new subparagraph:

"(E) OWNER-OCCUPIED BUILDINGS HAVING 4 OR FEWER UNITS ELIGIBLE FOR CREDIT WHERE DEVELOPMENT PLAN.—

"(i) IN GENERAL.—Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (h)(5)(C)).

"(ii) LIMITATION ON CREDIT.—In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

"(iii) CERTAIN UNRENTED UNITS TREATED AS OWNER-OCCUPIED.—In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the 1st day it is not rented."

(5) BUILDINGS RECEIVING SECTION 8 MODERATE REHABILITATION ASSISTANCE OR SIMILAR ASSISTANCE NOT ELIGIBLE FOR CREDIT.—Section 42(b)(1) (relating to applicable percentage for buildings placed in service during 1987) is amended by adding at the end thereof the following new flush sentence:

"A building shall not be treated as described in subparagraph (B) if, at any time during the credit period, moderate rehabilitation assistance is provided with respect to such building under section 8(e)(2) of the United States Housing Act of 1937."

(i) APPLICATION OF CREDIT TO TRANSITIONAL HOUSING FOR THE HOMELESS; DENIAL OF CREDIT FOR SUBSTANDARD HOUSING.—

(1) IN GENERAL.—Subparagraph (B) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(B) EXCEPTIONS.—

"(i) IN GENERAL.—A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy and used other than on a transient basis.

"(ii) SUITABILITY FOR OCCUPANCY.—For purposes of clause (i), the suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes.

"(iii) TRANSITIONAL HOUSING FOR HOMELESS.—For purposes of clause (i), a unit shall be considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building—

"(I) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on the date of the enactment of this clause) to independent living within 24 months, and

"(II) in which a governmental entity or qualified nonprofit organization (as defined in subsection (h)(5)) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

"(iv) SINGLE-ROOM OCCUPANCY UNITS.—For purposes of clause (i), a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis."

(2) QUALIFIED BASIS TO INCLUDE PORTION OF BUILDING USED TO PROVIDE SUPPORTIVE SERVICES.—Paragraph (1) of section 42(c) is amended by adding at the end thereof the following new subparagraph:

"(E) QUALIFIED BASIS TO INCLUDE PORTION OF BUILDING USED TO PROVIDE SUPPORTIVE SERVICES FOR HOMELESS.—In the case of a qualified low-income building described in subsection (i)(3)(B)(iii), the qualified basis of such building for any taxable year shall be increased by the lesser of—

"(i) so much of the eligible basis of such building as is used throughout the year to provide supportive services designed to assist tenants in locating and retaining permanent housing, or

"(ii) 20 percent of the qualified basis of such building (determined without regard to this subparagraph)."

(j) VOLUME CAP NOT TO APPLY WHERE 50 PERCENT OR MORE OF BUILDING IS FINANCED WITH TAX-EXEMPT BONDS.—Subparagraph (B) of section 42(h)(4) is amended by striking "70 percent" each place it appears and inserting "50 percent".

(k) BUILDING NOT TREATED AS FEDERALLY SUBSIDIZED BY REASON OF COMMUNITY DEVELOPMENT BLOCK GRANT.—Subparagraph (D) of section 42(i)(2) (defining below market Federal loan) is amended by adding at the end thereof the following new sentence: "Such term shall not include any loan which would be a below market Federal loan solely by reason of assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 (as in effect on the date of the enactment of this sentence)."

(l) ELIGIBLE BASIS FOR NEW BUILDINGS TO INCLUDE EXPENDITURES BEFORE CLOSE OF 1ST YEAR OF CREDIT PERIOD.—

(1) NEW BUILDINGS.—Paragraph (1) of section 42(d) (relating to eligible basis for new buildings) is amended by inserting before the period "as of the close of the 1st taxable year of the credit period".

(2) EXISTING BUILDINGS.—Subparagraph (A) of section 42(d)(2) (relating to eligible basis for existing buildings) is amended by striking "subparagraph (B)" and all that follows through the end of clause (i) and inserting "subparagraph (B), its adjusted basis as of the close of the 1st taxable year of the credit period, and".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 42(d)(2) is amended by striking "ACQUISITION COST" in the heading and inserting

"ADJUSTED BASIS" and by striking "cost" in the text and inserting "adjusted basis".

(B) Paragraph (5) of section 42(d), as amended by subsection (g), is further amended by striking subparagraph (A), by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively, and by striking the paragraph heading and inserting the following:

"(5) SPECIAL RULES FOR DETERMINING ELIGIBLE BASIS.—".

(C) Paragraph (5) of section 42(e) is amended by striking "subsection (d)(2)(A)(i)(II)" and inserting "subsection (d)(2)(A)(i)".

(m) HOUSING CREDIT MAY BE ALLOCATED ON PROJECT BASIS.—

(1) IN GENERAL.—Section 42(h)(1) (relating to credit may not exceed credit amount allocated to building) is amended by adding at the end thereof the following new subparagraph:

"(F) ALLOCATION OF CREDIT ON A PROJECT BASIS.—

"(i) IN GENERAL.—In the case of a project which includes (or will include) more than 1 building, an allocation meets the requirements of this subparagraph if—

"(I) the allocation is made to the project for a calendar year during the project period,

"(II) the allocation only applies to buildings placed in service during or after the calendar year for which the allocation is made, and

"(III) the portion of such allocation which is allocated to any building in such project is specified not later than the close of the calendar year in which the building is placed in service.

"(ii) PROJECT PERIOD.—For purposes of clause (i), the term 'project period' means the period—

"(I) beginning with the 1st calendar year for which an allocation may be made for the 1st building placed in service as part of such project, and

"(II) ending with the calendar year the last building is placed in service as part of such project."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 42(h)(1) is amended by striking "or (E)" and inserting "(E), or (F)".

(3) PROJECTS WITH MORE THAN 1 BUILDING MUST BE IDENTIFIED.—Section 42(g)(3) (relating to date for meeting requirements) is amended by adding at the end thereof the following new subparagraph:

"(D) PROJECTS WITH MORE THAN 1 BUILDING MUST BE IDENTIFIED.—For purposes of this section, a project shall be treated as consisting of only 1 building unless, before the close of the 1st calendar year in the project period (as defined in subsection (h)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide."

(n) CHANGES IN RULES RELATED TO DEEP RENT SKEWED PROJECTS.—

(1) Clause (iii) of section 142(d)(4)(B) (relating to deep rent skewed project) is amended by striking "⅓" and inserting "½".

(2) Section 42(g)(4) (relating to certain rules made applicable) is amended by striking "(other than section 142(d)(4)(B)(iii))".

(o) **Increased Responsibilities for Housing Credit Agencies.**—Section 42 is amended by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

"(m) **Responsibilities of Housing Credit Agencies.**—

"(1) **Plans for allocation of credit among projects.**—

"(A) **In general.**—Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless—

"(i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part, and

"(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.

"(B) **Qualified allocation plan.**—For purposes of this paragraph, the term 'qualified allocation plan' means any plan—

"(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

"(ii) which gives the highest priority to those projects as to which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries unless granting such priority would impede the development of projects in hard-to-develop areas,

"(iii) which also gives preference in allocating housing credit dollar amounts among selected projects to—

"(I) projects serving the lowest income tenants, and

"(II) projects obligated to serve qualified tenants for the longest periods, and

"(iv) which provides a procedure that the agency will follow in notifying the Internal Revenue Service of noncompliance with the provisions of this section which such agency becomes aware of.

"(C) **Certain selection criteria must be used.**—The selection criteria set forth in a qualified allocation plan must include—

"(i) project location,

"(ii) housing needs characteristics,

"(iii) project characteristics,

"(iv) sponsor characteristics,

"(v) participation of local tax-exempt organizations,

"(vi) tenant populations with special housing needs, and

"(vii) public housing waiting lists.

"(D) **Application to bond financed projects.**—Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located.

"(2) CREDIT ALLOCATED TO BUILDING NOT TO EXCEED AMOUNT NECESSARY TO ASSURE PROJECT FEASIBILITY.—

"(A) IN GENERAL.—The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

"(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the housing credit agency shall consider—

"(i) the sources and uses of funds and the total financing planned for the project, and

"(ii) any proceeds or receipts expected to be generated by reason of tax benefits.

Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

"(C) DETERMINATION MADE WHEN CREDIT AMOUNT APPLIED FOR AND WHEN BUILDING PLACED IN SERVICE.—

"(i) IN GENERAL.—A determination under subparagraph (A) shall be made as of each of the following times:

"(I) The application for the housing credit dollar amount.

"(II) The allocation of the housing credit dollar amount.

"(III) The date the building is placed in service.

"(ii) CERTIFICATION AS TO AMOUNT OF OTHER SUBSIDIES.—Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

"(D) APPLICATION TO BOND FINANCED PROJECTS.—Subsection (h)(4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B)."

(o) APPLICATION OF AT-RISK RULES WITH RESPECT TO CERTAIN FINANCING PROVIDED BY QUALIFIED NONPROFIT ORGANIZATIONS.—Subparagraph (D) of section 42(k)(2) (relating to application of at-risk rules) is amended by adding at the end thereof the following new flush sentence:

"In the case of a qualified nonprofit organization which is not described in section 46(c)(8)(D)(iv)(II) with respect to a building, clause (ii) of this subparagraph shall be applied as if the date described therein were the 90th day after the earlier of the date the building ceases to be a qualified low-income building or the date which is 15 years after the close of a compliance period with respect thereto."

(p) TIME FOR CERTIFICATION.—Section 42(l)(1) (relating to certification with respect to 1st year of credit period) is amended—

(1) by striking "Not later than the 90th day following" and inserting "Following", and

(2) by inserting "at such time and" before "in such form".

(q) **Impact of Tenant's Right of 1st Refusal to Acquire Property.**—Subsection (i) of section 42 is amended by adding at the end thereof the following new paragraph:

"(8) **Impact of tenant's right of 1st refusal to acquire property.**—

"(A) **In general.**—No Federal income tax benefit shall fail to be allowable to the taxpayer with respect to any qualified low-income building merely by reason of a right of 1st refusal held by the tenants of such building to purchase the property after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

"(B) **Minimum purchase price.**—For purposes of subparagraph (A), the minimum purchase price under this subparagraph is an amount equal to the sum of—

"(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to the tenants), and

"(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii)."

(r) **Effective Dates.**—

26 USC 42 note.

(1) **In general.**—Except as otherwise provided in this subsection, the amendments made by this section shall apply to determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1989.

(2) **Buildings not subject to allocation limits.**—Except as otherwise provided in this subsection, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, the amendments made by this section shall apply to buildings placed in service after December 31, 1989.

(3) **One-year carryover of unused credit authority, etc.**—The amendments made by subsection (b) shall apply to calendar years after 1989, but clauses (ii), (iii), and (iv) of section 42(h)(3)(C) of such Code (as added by this section) shall be applied without regard to allocations for 1989 or any preceding year.

(4) **Additional buildings eligible for waiver of 10-year rule.**—The amendments made by subsection (f) shall take effect on the date of the enactment of this Act.

(5) **Certifications with respect to 1st year of credit period.**—The amendment made by subsection (p) shall apply to taxable years ending on or after December 31, 1989.

(6) **Certain rules which apply to bonds.**—Paragraphs (1)(D) and (2)(D) of section 42(m) of such Code, as added by this section, shall apply to obligations issued December 31, 1989.

(7) **Clarifications.**—The amendments made by the following provisions of this section shall apply as if included in the amendments made by section 252 of the Tax Reform Act of 1986:

(A) Paragraph (1) of subsection (h) (relating to units rented on a monthly basis).

(B) Subsection (l) (relating to eligible basis for new buildings to include expenditures before close of 1st year of credit period).

(8) GUIDANCE ON DIFFICULT DEVELOPMENT AREAS AND POSTING OF BOND TO AVOID RECAPTURE.—Not later than 180 days after the date of the enactment of this Act—

(A) the Secretary of Housing and Urban Development shall publish initial guidance on the designation of difficult development areas under section 42(d)(5)(C) of such Code, as added by this section, and

(B) the Secretary of the Treasury shall publish initial guidance under section 42(j)(6) of such Code (relating to no recapture on disposition of building (or interest therein) where bond posted).

SEC. 7109. LOW-INCOME HOUSING CREDIT EXEMPT FROM INCOME PHASE-OUT OF $25,000 EXEMPTION FROM PASSIVE LOSS RULES.

(a) IN GENERAL.—Paragraph (3) of section 469(i) (relating to phase-out of exemption) is amended by redesignating subparagraph (D) as subparagraph (E) and by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

"(B) SPECIAL PHASE-OUT OF REHABILITATION CREDIT.—In the case of any portion of the passive activity credit for any taxable year which is attributable to the rehabilitation investment credit (within the meaning of section 48(o)), subparagraph (A) shall be applied by substituting '$200,000' for '$100,000'.

"(C) EXCEPTION FOR LOW-INCOME HOUSING CREDIT.—Subparagraph (A) shall not apply to any portion of the passive activity credit for any taxable year which is attributable to any credit determined under section 42.

"(D) ORDERING RULES TO REFLECT EXCEPTION AND SEPARATE PHASE-OUT.—If subparagraph (B) or (C) applies for any taxable year, paragraph (1) shall be applied—

"(i) first to the passive activity loss,

"(ii) second to the portion of the passive activity credit to which subparagraph (B) or (C) does not apply,

"(iii) third to the portion of such credit to which subparagraph (B) applies, and

"(iv) then to the portion of such credit to which subparagraph (C) applies."

26 USC 469 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1989, in taxable years ending after such date.

(2) SPECIAL RULE WHERE INTEREST HELD IN PASS-THRU ENTITY.—In the case of a taxpayer who holds an indirect interest in property described in paragraph (1), the amendments made by this section shall apply only if such interest is acquired after December 31, 1989.

SEC. 7110. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (h) of section 41 (relating to termination), as redesignated by subtitle H, is amended—

(A) by striking "December 31, 1989" each place it appears and inserting "December 31, 1990", and

(B) by striking "January 1, 1990" each place it appears and inserting "January 1, 1991".

(2) SPECIAL RULES.— 26 USC 41 note.

(A) In the case of any taxable year which begins before October 1, 1990, and ends after September 30, 1990, the amount treated as the qualified research expenses for such taxable year for purposes of section 41 of the Internal Revenue Code of 1986 shall be the amount which bears the same ratio to the amount which would have been determined for such taxable year without regard to this subparagraph as the number of days in such taxable year before October 1, 1990, bears to the total number of days in such taxable year before January 1, 1991.

(B) In the case of a taxable year described in subparagraph (A), paragraph (2) of section 41(h) of such Code, as so redesignated, shall be applied by substituting "October 1, 1990" for "January 1, 1991" each place it appears and by substituting "September 30, 1990" for "December 31, 1990".

(3) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1989" and inserting "December 31, 1990".

(b) CHANGES IN COMPUTATION OF INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 41 is amended to read as follows:

"(c) BASE AMOUNT.—

"(1) IN GENERAL.—The term 'base amount' means the product of—

"(A) the fixed-base percentage, and

"(B) the average annual gross receipts of the taxpayer for the 4 taxable years preceding the taxable year for which the credit is being determined (hereinafter in this subsection referred to as the 'credit year').

"(2) MINIMUM BASE AMOUNT.—In no event shall the base amount be less than 50 percent of the qualified research expenses for the credit year.

"(3) FIXED-BASE PERCENTAGE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the fixed-base percentage is the percentage which the aggregate qualified research expenses of the taxpayer for taxable years beginning after December 31, 1983, and before January 1, 1989, is of the aggregate gross receipts of the taxpayer for such taxable years.

"(B) START-UP COMPANIES.—

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is 3 percent.

"(iii) TREATMENT OF DE MINIMIS AMOUNTS OF GROSS RECEIPTS AND QUALIFIED RESEARCH EXPENSES.—The Secretary may prescribe regulations providing that de minimis amounts of gross receipts and qualified research expenses shall be disregarded under clause (i).

"(C) MAXIMUM FIXED-BASE PERCENTAGE.—In no event shall the fixed-base percentage exceed 16 percent.

"(D) ROUNDING.—The percentages determined under subparagraph (A) shall be rounded to the nearest 1/100th of 1 percent.

"(4) CONSISTENT TREATMENT OF EXPENSES REQUIRED.—

"(A) IN GENERAL.—Notwithstanding whether the period for filing a claim for credit or refund has expired for any taxable year taken into account in determining the fixed-base percentage, the qualified research expenses taken into account in computing such percentage shall be determined on a basis consistent with the determination of qualified research expenses for the credit year.

"(B) PREVENTION OF DISTORTIONS.—The Secretary may prescribe regulations to prevent distortions in calculating a taxpayer's qualified research expenses or gross receipts caused by a change in accounting methods used by such taxpayer between the current year and a year taken into account in computing such taxpayer's fixed-base percentage.

"(5) GROSS RECEIPTS.—For purposes of this subsection, gross receipts for any taxable year shall be reduced by returns and allowances made during the taxable year. In the case of a foreign corporation, there shall be taken into account only gross receipts which are effectively connected with the conduct of a trade or business within the United States."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 41(a)(1) is amended to read as follows:

"(B) the base amount, and".

(B) Clause (ii) of section 41(e)(7)(C) is amended by striking "base period research expenses" and inserting "base amount".

(C) Paragraph (1) of section 41(f) (relating to aggregation of expenditures) is amended by striking "proportionate share of the increase in qualified research expenses" each place it appears and inserting "proportionate shares of the qualified research expenses and basic research payments".

(D) Subparagraph (A) of section 41(f)(3) is amended—

(i) by striking "June 30, 1980" and inserting "December 31, 1983", and

(ii) by inserting before the period ", and the gross receipts of the taxpayer for such periods shall be increased by so much of the gross receipts of such predecessor with respect to the acquired trade or business as is attributable to such portion".

(E) Subparagraph (B) of section 41(f)(3) is amended—

(i) by striking "June 30, 1980" and inserting "December 31, 1983", and

(ii) by inserting before the period ", and the gross receipts of the taxpayer for such periods shall be decreased by so much of the gross receipts as is attributable to such portion".

(F)(i) Subparagraph (C) of section 41(f)(3) is amended by striking "for the base period" and all that follows and inserting "for the taxable years taken into account in computing the fixed-base percentage shall be increased by the lesser of—

"(i) the amount of the decrease under subparagraph (B) which is allocable to taxable years so taken into account, or

"(ii) the product of the number of taxable years so taken into account, multiplied by the amount of the reimbursement described in this subparagraph."

(ii) The heading for such subparagraph (C) is amended to read as follows:

"(C) CERTAIN REIMBURSEMENTS TAKEN INTO ACCOUNT IN DETERMINING FIXED-BASE PERCENTAGE.—".

(G) Paragraph (4) of section 41(f) is amended by inserting "and gross receipts" after "qualified research expenses".

(H) Paragraph (2) of section 41(h), as redesignated by subtitle H, is amended—

(i) by striking "BASE PERIOD EXPENSES" in the heading and inserting "BASE AMOUNT", and

(ii) by striking "any amount for any base period" and all that follows through "such base period" and inserting "the base amount with respect to such taxable year shall be the amount which bears the same ratio to the base amount for such year (determined without regard to this paragraph)".

(b) TRADE OR BUSINESS REQUIREMENT DISREGARDED FOR IN-HOUSE RESEARCH EXPENSES OF CERTAIN STARTUP VENTURES.—Subsection (b) of section 41 (defining qualified research expenses) is amended by adding at the end thereof the following new paragraph:

"(4) TRADE OR BUSINESS REQUIREMENT DISREGARDED FOR IN-HOUSE RESEARCH EXPENSES OF CERTAIN STARTUP VENTURES.—In the case of in-house research expenses, a taxpayer shall be treated as meeting the trade or business requirement of paragraph (1) if, at the time such in-house research expenses are paid or incurred, the principal purpose of the taxpayer in making such expenditures is to use the results of the research in the active conduct of a future trade or business—

"(A) of the taxpayer, or

"(B) of 1 or more other persons who with the taxpayer are treated as a single taxpayer under subsection (f)(1)."

(c) FULL DISALLOWANCE OF DEDUCTION FOR QUALIFIED RESEARCH EXPENSES.—

(1) Subsection (c) of section 280C, as amended by subtitle H, is further amended by striking "50 percent of" each place it appears.

(2) Paragraph (2) of section 196(d) is amended by inserting before the period "for a taxable year beginning before January 1, 1990".

(d) ONLY REASONABLE RESEARCH EXPENDITURES ELIGIBLE FOR SECTION 174.—Section 174 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ONLY REASONABLE RESEARCH EXPENDITURES ELIGIBLE.—This section shall apply to a research or experimental expenditure only to the extent that the amount thereof is reasonable under the circumstances."

26 USC 41 note.

(e) **Effective Date.**—The amendments made by this section (other than subsection (a)) shall apply to taxable years beginning after December 31, 1989.

SEC. 7111. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Section 864 (relating to definitions and special rule) is amended by adding at the end thereof the following new subsection:

"(f) **Allocation of Research and Experimental Expenditures.**—

"(1) **In general.**—For purposes of sections 861(b), 862(b), and 863(b), qualified research and experimental expenditures shall be allocated and apportioned as follows:

"(A) Any qualified research and experimental expenditures expended solely to meet legal requirements imposed by a political entity with respect to the improvement or marketing of specific products or processes for purposes not reasonably expected to generate gross income (beyond de minimis amounts) outside the jurisdiction of the political entity shall be allocated only to gross income from sources within such jurisdiction.

"(B) In the case of any qualified research and experimental expenditures (not allocated under subparagraph (A)) to the extent—

"(i) that such expenditures are attributable to activities conducted in the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

"(ii) that such expenditures are attributable to activities conducted outside the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources outside the United States and deducted from such income in determining the amount of taxable income from sources outside the United States.

"(C) The remaining portion of qualified research and experimental expenditures (not allocated under subparagraphs (A) and (B)) shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income, except that, if the taxpayer elects to apportion on the basis of gross income, the amount apportioned to income from sources outside the United States shall at least be 30 percent of the amount which would be so apportioned on the basis of gross sales.

"(2) **Qualified research and experimental expenditures.**—For purposes of this section, the term 'qualified research and experimental expenditures' means amounts which are research and experimental expenditures within the meaning of section 174. For purposes of this paragraph, rules similar to the rules of subsection (c) of section 174 shall apply. Any qualified research and experimental expenditures treated as deferred expenses under subsection (b) of section 174 shall be taken into account under this subsection for the taxable year for which such expenditures are allowed as a deduction under such subsection.

"(3) SPECIAL RULES FOR EXPENDITURES ATTRIBUTABLE TO ACTIVITIES CONDUCTED IN SPACE, ETC.—

"(A) IN GENERAL.—Any qualified research and experimental expenditures described in subparagraph (B)—

"(i) if incurred by a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted in the United States, and

"(ii) if incurred by a person other than a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted outside the United States.

"(B) DESCRIPTION OF EXPENDITURES.—For purposes of subparagraph (A), qualified research and experimental expenditures are described in this subparagraph if such expenditures are attributable to activities conducted—

"(i) in space,

"(ii) on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States, or

"(iii) in Antarctica.

"(4) AFFILIATED GROUP.—

"(A) Except as provided in subparagraph (B), the allocation and apportionment required by paragraph (1) shall be determined as if all members of the affiliated group (as defined in subsection (e)(5)) were a single corporation.

"(B) For purposes of the allocation and apportionment required by paragraph (1)—

"(i) sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E)), and

"(ii) dividends from an electing corporation,

shall not be taken into account, except that this subparagraph shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) is not in effect.

"(C) The qualified research and experimental expenditures taken into account for purposes of paragraph (1) shall be adjusted to reflect the amount of such expenditures included in computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I)).

"(D) The Secretary may prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by subparagraph (C).

"(E) Paragraph (6) of subsection (e) shall not apply to qualified research and experimental expenditures.

"(5) YEAR TO WHICH RULE APPLIES.—

"(A) IN GENERAL.—Except as provided in this paragraph, this subsection shall apply to the taxpayer's first taxable year beginning after August 1, 1989, and before August 2, 1990.

"(B) REDUCTION.—Notwithstanding subparagraph (A) this subsection shall only apply to that portion of the qualified research and experimental expenditures for the taxable year referred to in subparagraph (A) which bears the same ratio to the total amount of such expenditures as—

"(i) the lesser of 9 months or the number of months in the taxable year, bears to

"(ii) the number of months in the taxable year."

Securities.

Subtitle B—Corporate Provisions

SEC. 7201. LIMITATION ON USE OF GROUP LOSSES TO OFFSET INCOME OF SUBSIDIARY PAYING PREFERRED DIVIDENDS.

(a) **General Rule.**—Section 1503 (relating to computation and payment of tax) is amended by adding at the end thereof the following new subsection:

"(f) **Limitation on Use of Group Losses to Offset Income of Subsidiary Paying Preferred Dividends.**—

"(1) **In general.**—In the case of any subsidiary distributing during any taxable year dividends on any applicable preferred stock—

"(A) no group loss item shall be allowed to reduce the disqualified separately computed income of such subsidiary for such taxable year, and

"(B) no group credit item shall be allowed against the tax imposed by this chapter on such disqualified separately computed income.

"(2) **Group items.**—For purposes of this subsection—

"(A) **Group loss item.**—The term 'group loss item' means any of the following items of any other member of the affiliated group which includes the subsidiary:

"(i) Any net operating loss and any net operating loss carryover or carryback under section 172.

"(ii) Any loss from the sale or exchange of any capital asset and any capital loss carryover or carryback under section 1212.

"(B) **Group credit item.**—The term 'group credit item' means any credit allowable under part IV of subchapter A of chapter 1 (other than section 34) to any other member of the affiliated group which includes the subsidiary and any carryover or carryback of any such credit.

"(3) **Other definitions.**—For purposes of this subsection—

"(A) **Disqualified separately computed income.**—The term 'disqualified separately computed income' means the portion of the separately computed taxable income of the subsidiary which does not exceed the dividends distributed by the subsidiary during the taxable year on applicable preferred stock.

"(B) **Separately computed taxable income.**—The term 'separately computed taxable income' means the separate taxable income of the subsidiary for the taxable year determined—

"(i) by taking into account gains and losses from the sale or exchange of a capital asset and section 1231 gains and losses,

"(ii) without regard to any net operating loss or capital loss carryover or carryback, and "(iii) with such adjustments as the Secretary may prescribe.

"(C) SUBSIDIARY.—The term 'subsidiary' means any corporation which is a member of an affiliated group filing a consolidated return other than the common parent.

"(D) APPLICABLE PREFERRED STOCK.—The term 'applicable preferred stock' means stock described in section 1504(a)(4) in the subsidiary which is—

"(i) issued after November 17, 1989, and

"(ii) held by a person other than a member of the same affiliated group as the subsidiary.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this subsection, including regulations—

"(A) to prevent the avoidance of this subsection through the transfer of built-in losses to the subsidiary,

"(B) to provide rules for cases in which the subsidiary owns (directly or indirectly) stock in another member of the affiliated group, and

"(C) to provide for the application of this subsection where dividends are not paid currently, where the redemption and liquidation rights of the applicable preferred stock exceed the issue price for such stock, or where the stock is otherwise structured to avoid the purposes of this subsection."

(b) EFFECTIVE DATES.—

26 USC 1503 note.

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years ending after November 17, 1989.

(2) BINDING CONTRACT EXCEPTION.—For purposes of section 1503(f)(3)(D) of the Internal Revenue Code of 1986, stock issued after November 17, 1989, pursuant to a written binding contract in effect on November 17, 1989, and at all times thereafter before such issuance, shall be treated as issued on November 17, 1989.

(3) SPECIAL RULE WHEN SUBSIDIARY LEAVES GROUP.—If, by reason of a transaction after November 17, 1989, a corporation ceases to be, or becomes, a member of an affiliated group, the stock of such corporation shall be treated, for purposes of section 1503(f)(3)(D) of such Code, as issued on the date of such cessation or commencement, unless such transaction is of a kind which would not result in the recognition of any deferred intercompany gain under the consolidated return regulations by reason of the acquisition of the entire group.

(4) RETIRED STOCK.—

(A) Except as provided in subparagraph (B), if stock issued before November 18, 1989, (or described in paragraph (2)), is retired or acquired after November 17, 1989, by the corporation or another member of the same affiliated group, such stock shall be treated, for purposes of section 1503(f)(3)(D) of such Code, as issued on the date of such retirement or acquisition.

(B) Subparagraph (A) shall not apply to any retirement or acquisition pursuant to an obligation to reissue under a binding written contract in effect on November 17, 1989, and at all times thereafter before such retirement or acquisition.

(5) AUCTION RATE PREFERRED.—For purposes of section 1503(f)(3)(D) of such Code, auction rate preferred stock shall be treated as issued when the contract requiring the auction became binding.

(6) SPECIAL RULE FOR CERTAIN AUCTION RATE PREFERRED.—For purposes of section 1503(f)(3)(D) of the Internal Revenue Code of 1986, any auction rate preferred stock shall be treated as issued before November 18, 1989, if—

(A) a subsidiary was incorporated before July 10, 1989 for the special purpose of issuing such stock,

(B) a rating agency was retained before July 10, 1989, and

(C) such stock is issued before the date 30 days after the date of the enactment of this Act.

SEC. 7202. TREATMENT OF CERTAIN HIGH YIELD ORIGINAL ISSUE DISCOUNT OBLIGATIONS.

(a) GENERAL RULE.—Subsection (e) of section 163 (relating to interest deductions on original issue discount obligations) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR ORIGINAL ISSUE DISCOUNT ON CERTAIN HIGH YIELD OBLIGATIONS.—

"(A) IN GENERAL.—In the case of an applicable high yield discount obligation issued by a corporation—

"(i) no deduction shall be allowed under this chapter for the disqualified portion of the original issue discount on such obligation, and

"(ii) the remainder of such original issue discount shall not be allowable as a deduction until paid.

For purposes of clause (ii), rules similar to the rules of subsection (i)(3)(B) shall apply in determining the time when the original issue discount is paid.

"(B) DISQUALIFIED PORTION TREATED AS STOCK DISTRIBUTION FOR PURPOSES OF DIVIDEND RECEIVED DEDUCTION.—

"(i) IN GENERAL.—Solely for purposes of sections 243, 245, 246, and 246A, the dividend equivalent portion of any amount includible in gross income of a corporation under section 1272(a) in respect of an applicable high yield discount obligation shall be treated as a dividend received by such corporation from the corporation issuing such obligation.

"(ii) DIVIDEND EQUIVALENT PORTION.—For purposes of clause (i), the dividend equivalent portion of any amount includible in gross income under section 1272(a) in respect of an applicable high yield discount obligation is the portion of the amount so includible—

"(I) which is attributable to the disqualified portion of the original issue discount on such obligation, and

"(II) which would have been treated as a dividend if it had been a distribution made by the issuing corporation with respect to stock in such corporation.

"(C) DISQUALIFIED PORTION.—

"(i) IN GENERAL.—For purposes of this paragraph, the disqualified portion of the original issue discount on any applicable high yield discount obligation is the lesser of—

"(I) the amount of such original issue discount, or

"(II) the portion of the total return on such obligation which bears the same ratio to such total return as the disqualified yield on such obligation bears to the yield to maturity on such obligation.

"(ii) DEFINITIONS.—For purposes of clause (i), the term 'disqualified yield' means the excess of the yield to maturity on the obligation over the sum referred to subsection (i)(1)(B) plus 1 percentage point, and the term 'total return' is the amount which would have been the original issue discount on the obligation if interest described in the parenthetical in section 1273(a)(2) were included in the stated redemption price at maturity.

"(D) EXCEPTION FOR S CORPORATIONS.—This paragraph shall not apply to any obligation issued by any corporation for any period for which such corporation is an S corporation.

"(E) EFFECT ON EARNINGS AND PROFITS.—This paragraph shall not apply for purposes of determining earnings and profits; except that, for purposes of determining the dividend equivalent portion of any amount includible in gross income under section 1272(a) in respect of an applicable high yield discount obligation, no reduction shall be made for any amount attributable to the disqualified portion of any original issue discount on such obligation.

"(F) CROSS REFERENCE.—

"For definition of applicable high yield discount obligation, see subsection (i)."

(b) APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—Section 163 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) APPLICABLE HIGH YIELD DISCOUNT OBLIGATION.—

"(1) IN GENERAL.—For purposes of this section, the term 'applicable high yield discount obligation' means any debt instrument if—

"(A) the maturity date of such instrument is more than 5 years from the date of issue,

"(B) the yield to maturity on such instrument equals or exceeds the sum of—

"(i) the applicable Federal rate in effect under section 1274(d) for the calendar month in which the obligation is issued, plus

"(ii) 5 percentage points, and

"(C) such instrument has significant original issue discount.

For purposes of subparagraph (B)(i), the Secretary may by regulation permit a rate to be used with respect to any debt instrument which is higher than the applicable Federal rate if the taxpayer establishes to the satisfaction of the Secretary that such higher rate is based on the same principles as the applicable Federal rate and is appropriate for the term of the instrument.

"(2) SIGNIFICANT ORIGINAL ISSUE DISCOUNT.—For purposes of paragraph (1)(C), a debt instrument shall be treated as having significant original issue discount if—

"(A) the aggregate amount which would be includible in gross income with respect to such instrument for periods before the close of any accrual period (as defined in section 1272(a)(5)) ending after the date 5 years after the date of issue, exceeds—

"(B) the sum of—

"(i) the aggregate amount of interest to be paid under the instrument before the close of such accrual period, and

"(ii) the product of the issue price of such instrument (as defined in sections 1273(b) and 1274(a)) and its yield to maturity.

"(3) SPECIAL RULES.—For purposes of determining whether a debt instrument is an applicable high yield discount obligation—

"(A) any payment under the instrument shall be assumed to be made on the last day permitted under the instrument, and

"(B) any payment to be made in the form of another obligation (or stock) of the issuer (or a related person within the meaning of section 453(f)(1)) shall be assumed to be made when such obligation (or stock) is required to be paid in cash or in property other than such obligation (or stock).

"(4) DEBT INSTRUMENT.—For purposes of this subsection, the term 'debt instrument' means any instrument which is a debt instrument as defined in section 1275(a).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection and subsection (e)(5), including—

"(A) regulations providing for modifications to the provisions of this subsection and subsection (e)(5) in the case of varying rates of interest, put or call options, indefinite maturities, contingent payments, assumptions of debt instruments, conversion rights, or other circumstances where such modifications are appropriate to carry out the purposes of this subsection and subsection (e)(5), and

"(B) regulations to prevent avoidance of the purposes of this subsection and subsection (e)(5) through the use of issuers other than C corporations, agreements to borrow amounts due under the debt instrument, or other arrangements."

26 USC 163 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to instruments issued after July 10, 1989.

(2) EXCEPTIONS.—

(A) The amendments made by this section shall not apply to any instrument if—

(i) such instrument is issued in connection with an acquisition—

(I) which is made on or before July 10, 1989,

(II) for which there was a written binding contract in effect on July 10, 1989, and at all times thereafter before such acquisition, or

(III) for which a tender offer was filed with the Securities and Exchange Commission on or before July 10, 1989,

(ii) the term of such instrument is not greater than—

(I) the term specified in the written documents described in clause (iii), or

(II) if no term is determined under subclause (I), 10 years, and

(iii) the use of such instrument in connection with such acquisition (and the maximum amount of proceeds from such instrument) was determined on or before July 10, 1989, and such determination is evidenced by written documents—

(I) which were transmitted on or before July 10, 1989, between the issuer and any governmental regulatory bodies or prospective parties to the issuance or acquisition, and

(II) which are customarily used for the type of acquisition or financing involved.

(B) The amendments made by this section shall not apply to any instrument issued pursuant to the terms of a debt instrument issued on or before July 10, 1989, or described in subparagraph (A) or (D).

(C) The amendments made by this section shall not apply to any instrument issued to refinance an original issue discount debt instrument to which the amendments made by this section do not apply if—

(i) the maturity date of the refinancing instrument is not later than the maturity date of the refinanced instrument,

(ii) the issue price of the refinancing instrument does not exceed the adjusted issue price of the refinanced instrument,

(iii) the stated redemption price at maturity of the refinancing instrument is not greater than the stated redemption price at maturity of the refinanced instrument, and

(iv) the interest payments required under the refinancing instrument before maturity are not less than (and are paid not later than) the interest payments required under the refinanced instrument.

(D) The amendments made by this section shall not apply to instruments issued after July 10, 1989, pursuant to a reorganization plan in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1986) if the amount of proceeds of such instruments, and the maturities of such instruments, do not exceed the amount or maturities specified in the last reorganization plan filed in such case on or before July 10, 1989.

SEC. 7203. SECURITIES TREATED AS BOOT UNDER SECTION 351.

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(a) General Rule.—Section 351(a) (relating to nonrecognition in cases of transfers to corporations controlled by transferor) is amended by striking "or securities".

(b) Conforming Amendments.—

(1) Subsections (b), (d), and (e)(2) of section 351 are each amended by striking "or securities".

(2) Paragraph (2) of section 351(g) is amended by striking "stock, securities, or property" and inserting "stock or property".

26 USC 351 note.

(c) Effective Date.—

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to transfers after October 2, 1989, in taxable years ending after such date.

(2) Binding contract.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such transfer.

(3) Corporate transfers.—In the case of property transferred (directly or indirectly through a partnership or otherwise) by a C corporation, paragraphs (1) and (2) shall be applied by substituting "July 11, 1989" for "October 2, 1989". The preceding sentence shall not apply where the corporation meets the requirements of section 1504(a)(2) of the Internal Revenue Code of 1986 with respect to the transferee corporation (and where the transfer is not part of a plan pursuant to which the transferor subsequently fails to meet such requirements).

SEC. 7204. PROVISIONS RELATED TO REGULATED INVESTMENT COMPANIES.

(a) Requirement to Distribute 98 Percent of Ordinary Income.—

(1) In general.—Subparagraph (A) of section 4982(b)(1) (defining required distribution) is amended by striking "97 percent" and inserting "98 percent".

26 USC 4982 note.

(2) Effective date.—The amendment made by paragraph (1) shall apply to calendar years ending after July 10, 1989.

(b) Treatment of Certain Mutual Fund Load Charges.—

(1) In general.—Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding at the end thereof the following new subsection:

"(f) Treatment of Certain Load Charges.—

"(1) In general.—If—

"(A) the taxpayer incurs a load charge in acquiring stock in a regulated investment company and, by reason of incurring such charge or making such acquisition, the taxpayer acquires a reinvestment right,

"(B) such stock is disposed of before the 91st day after the date on which such stock was acquired, and

"(C) the taxpayer subsequently acquires stock in such regulated investment company or in another regulated investment company and the otherwise applicable load charge is reduced by reason of the reinvestment right,

the load charge referred to in subparagraph (A) (to the extent it does not exceed the reduction referred to in subparagraph (C)) shall not be taken into account for purposes of determining the amount of gain or loss on the disposition referred to in subparagraph (B). To the extent such charge is not taken into account in determining the amount of such gain or loss, such charge shall be treated as incurred in connection with the acquisition referred to in subparagraph (C) (including for purposes of reapplying this paragraph).

"(2) Definitions and special rules.—For purposes of this subsection—

"(A) LOAD CHARGE.—The term 'load charge' means any sales or similar charge incurred by a person in acquiring stock of a regulated investment company. Such term does not include any charge incurred by reason of the reinvestment of a dividend.

"(B) REINVESTMENT RIGHT.—The term 'reinvestment right' means any right to acquire stock of 1 or more regulated investment companies without the payment of a load charge or with the payment of a reduced charge.

"(C) NONRECOGNITION TRANSACTIONS.—If the taxpayer acquires stock in a regulated investment company from another person in a transaction in which gain or loss is not recognized, the taxpayer shall succeed to the treatment of such other person under this subsection."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to charges incurred after October 3, 1989, in taxable years ending after such date. 26 USC 852 note.

(c) REGULATED INVESTMENT COMPANIES REQUIRED TO ACCRUE DIVIDENDS ON THE EX-DIVIDEND DATE.—

(1) IN GENERAL.—Subsection (b) of section 852 (relating to treatment of companies and shareholders) is amended by adding at the end thereof the following new paragraph:

"(9) DIVIDENDS TREATED AS RECEIVED BY COMPANY ON EX-DIVIDEND DATE.—For purposes of this title, if a regulated investment company is the holder of record of any share of stock on the record date for any dividend payable with respect to such stock, such dividend shall be included in gross income by such company as of the later of—

"(A) the date such share became ex-dividend with respect to such dividend, or

"(B) the date such company acquired such share."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dividends in cases where the stock becomes ex-dividend after the date of the enactment of this Act. 26 USC 852 note.

SEC. 7205. LIMITATION ON THRESHOLD REQUIREMENT UNDER SECTION 382 BUILT-IN GAIN AND LOSS PROVISIONS.

(a) GENERAL RULE.—Clause (i) of section 382(h)(3)(B) (relating to threshold requirement) is amended to read as follows:

"(i) IN GENERAL.—If the amount of the net unrealized built-in gain or net unrealized built-in loss (determined without regard to this subparagraph) of any old loss corporation is not greater than the lesser of—

"(I) 15 percent of the amount determined for purposes of subparagraph (A)(i)(I), or

"(II) $10,000,000,

the net unrealized built-in gain or net unrealized built-in loss shall be zero."

(b) CONFORMING AMENDMENT TO ADJUSTED CURRENT EARNINGS PREFERENCE.—Subparagraph (H) of section 56(g)(4) (relating to treatment of certain ownership changes) is amended by striking clause (ii) and all that follows and inserting the following:

"(ii) there is a net unrealized built-in loss (within the meaning of section 382(h)) with respect to such corporation,

then the adjusted basis of each asset of such corporation (immediately after the ownership change) shall be its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of such corporation (determined under section 382(h)) immediately before the ownership change."

26 USC 56 note.

(c) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to ownership changes and acquisitions after October 2, 1989, in taxable years ending after such date.

(2) Binding contract.—The amendments made by this section shall not apply to any ownership change or acquisition pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before such change or acquisition.

(3) Bankruptcy proceedings.—In the case of a reorganization described in section 368(a)(1)(G) of the Internal Revenue Code of 1986, or an exchange of debt for stock in a title 11 or similar case (as defined in section 368(a)(3) of such Code), the amendments made by this section shall not apply to any ownership change resulting from such a reorganization or proceeding if a petition in such case was filed with the court before October 3, 1989.

(4) Subsidiaries of bankrupt parent.—The amendments made by this section shall not apply to any built-in loss of a corporation which is a member (on October 2, 1989) of an affiliated group the common parent of which (on such date) was subject to title 11 or similar case (as defined in section 368(a)(3) of such Code). The preceding sentence shall apply only if the ownership change or acquisition is pursuant to the plan approved in such proceeding and is before the date 2 years after the date on which the petition which commenced such proceeding was filed.

SEC. 7206. DISTRIBUTIONS ON CERTAIN PREFERRED STOCK TREATED AS EXTRAORDINARY DIVIDENDS.

(a) General Rule.—Section 1059 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended by striking subsection (f) and inserting the following:

"(f) Treatment of Dividends on Certain Preferred Stock.—

"(1) In general.—Any dividend with respect to disqualified preferred stock shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held the stock.

"(2) Disqualified preferred stock.—For purposes of this subsection, the term 'disqualified preferred stock' means any stock which is preferred as to dividends if—

"(A) when issued, such stock has a dividend rate which declines (or can reasonably be expected to decline) in the future,

"(B) the issue price of such stock exceeds its liquidation rights or its stated redemption price, or

"(C) such stock is otherwise structured—

"(i) to avoid the other provisions of this section, and

"(ii) to enable corporate shareholders to reduce tax through a combination of dividend received deductions and loss on the disposition of the stock.

"(g) **Regulations.**—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations—

"(1) providing for the application of this section in the case of stock dividends, stock splits, reorganizations, and other similar transactions and in the case of stock held by pass-thru entities, and

"(2) providing that the rules of subsection (f) shall apply in the case of stock which is not preferred as to dividends in cases where stock is structured to avoid the purposes of this section."

(b) **Effective Date.**— 26 USC 1059 note.

(1) **In general.**—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after July 10, 1989, in taxable years ending after such date.

(2) **Binding contract.**—The amendment made by subsection (a) shall not apply to any stock issued pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the stock is issued.

SEC. 7207. REPEAL OF ELECTION TO REDUCE EXCESS LOSS ACCOUNT RECAPTURE BY REDUCING BASIS OF INDEBTEDNESS.

(a) **General Rule.**—Subsection (e) of section 1503 (relating to special rule for determining adjustment to basis) is amended by adding at the end thereof the following new paragraph:

"(4) **Elimination of election to reduce basis of indebtedness.**—Nothing in the regulations prescribed under section 1502 shall permit any reduction in the amount otherwise included in gross income by reason of an excess loss account if such reduction is on account of a reduction in the basis of indebtedness."

(b) **Effective Date.**— 26 USC 1503 note.

(1) **In general.**—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to dispositions after July 10, 1989, in taxable years ending after such date.

(2) **Binding contract.**—The amendment made by subsection (a) shall not apply to any disposition pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before such disposition.

SEC. 7208. OTHER PROVISIONS RELATING TO TREATMENT OF STOCK AND DEBT; ETC.

(a) **Clarification of Regulatory Authority Under Section 385.**—

(1) **In general.**—Subsection (a) of section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by inserting "(or as in part stock and in part indebtedness)" before the period at the end thereof.

(2) **Regulations not to be applied retroactively.**—Any regulations issued pursuant to the authority granted by the amendment made by paragraph (1) shall only apply with respect to instruments issued after the date on which the Secretary of the Treasury or his delegate provides public guidance as to the characterization of such instruments whether by regulation, ruling, or otherwise. 26 USC 385 note.

(b) **Reporting of Certain Acquisitions or Recapitalizations.**—

(1) **In general.**—Section 6043 is amended by striking subsection (c) and inserting the following new subsections:

"(c) **Changes in Control and Recapitalizations.**—If—

"(1) control (as defined in section 304(c)(1)) of a corporation is acquired by any person (or group of persons) in a transaction (or series of related transactions), or

"(2) there is a recapitalization of a corporation or other substantial change in the capital structure of a corporation,

when required by the Secretary, such corporation shall make a return (at such time and in such manner as the Secretary may prescribe) setting forth the identity of the parties to the transaction, the fees involved, the changes in the capital structure involved, and such other information as the Secretary may require with respect to such transaction.

"(d) CROSS REFERENCES.—

"For provisions relating to penalties for failure to file—
"(1) a return under subsection (b), see section 6652(c), or
"(2) a return under subsection (c), see section 6652(l)."

(2) PENALTY.—Section 6652 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FAILURE TO FILE RETURN WITH RESPECT TO CERTAIN CORPORATE TRANSACTIONS.—In the case of any failure to make a return required under section 6043(c) containing the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to file such return, an amount equal to $500 for each day during which such failure continues, but the total amount imposed under this subsection with respect to any return shall not exceed $100,000."

(3) CONFORMING AMENDMENTS.—

(A) The subsection heading for subsection (a) of section 6043 is amended by striking "CORPORATIONS" and inserting "CORPORATE LIQUIDATING, ETC., TRANSACTIONS".

(B) The section heading for section 6043 is amended to read as follows:

"SEC. 6043. LIQUIDATING; ETC., TRANSACTIONS."

(C) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6043 and inserting the following:

"Sec. 6043. Liquidating; etc., transactions."

26 USC 6043 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transactions after March 31, 1990.

SEC. 7209. ESTIMATED TAX PAYMENTS REQUIRED FOR S CORPORATIONS.

(a) IN GENERAL.—Subsection (g) of section 6655 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SECTION TO CERTAIN TAXES IMPOSED ON S CORPORATIONS.—In the case of an S corporation, for purposes of this section—

"(A) The following taxes shall be treated as imposed by section 11:

"(i) The tax imposed by section 1374(a) (or the corresponding provisions of prior law).

"(ii) The tax imposed by section 1375(a).

"(iii) Any tax for which the S corporation is liable by reason of section 1371(d)(2).

"(B) Paragraph (2) of subsection (d) shall not apply.

"(C) Clause (ii) of subsection (d)(1)(B) shall be applied as if it read as follows:

"'(ii) the sum of—

"'(I) the amount determined under clause (i) by only taking into account the taxes referred to in clauses (i) and (iii) of subsection (g)(4)(A), and

"'(II) 100 percent of the tax imposed by section 1375(a) which was shown on the return of the corporation for the preceding taxable year.'

"(D) The requirement in the last sentence of subsection (d)(1)(B) that the return for the preceding taxable year show a liability for tax shall not apply.

"(E) Any reference in subsection (e) to taxable income shall be treated as including a reference to the net recognized built-in gain or the excess passive income (as the case may be)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1989. 26 USC 6655 note.

SEC. 7210. LIMITATION ON DEDUCTION FOR CERTAIN INTEREST PAID TO RELATED PERSON.

(a) General Rule.—Section 163 (as amended by section 7202) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Limitation on Deduction for Certain Interest Paid by Corporation to Related Person.—

"(1) Limitation.—

"(A) In general.—If this subsection applies to any corporation for any taxable year, no deduction shall be allowed under this chapter for disqualified interest paid or accrued by such corporation during such taxable year. The amount disallowed under the preceding sentence shall not exceed the corporation's excess interest expense for the taxable year.

"(B) Disallowed amount carried to succeeding taxable year.—Any amount disallowed under subparagraph (A) for any taxable year shall be treated as disqualified interest paid or accrued in the succeeding taxable year.

"(2) Corporations to which subsection applies.—

"(A) In general.—This subsection shall apply to any corporation for any taxable year if—

"(i) such corporation has excess interest expense for such taxable year, and

"(ii) the ratio of debt to equity of such corporation as of the close of such taxable year (and on such other days during the taxable year as the Secretary may by regulations prescribe) exceeds 1.5 to 1.

"(B) Excess interest expense.—

"(i) In general.—For purposes of this subsection, the term 'excess interest expense' means the excess (if any) of—

"(I) the corporation's net interest expense, over

"(II) the sum of 50 percent of the adjusted taxable income of the corporation plus any excess limitation carryforward under clause (ii).

"(ii) EXCESS LIMITATION CARRYFORWARD.—If a corporation has an excess limitation for any taxable year, the amount of such excess limitation shall be an excess limitation carryforward to the 1st succeeding taxable year and to the 2nd and 3rd succeeding taxable years to the extent not previously taken into account under this clause. The amount of such a carryforward taken into account for any such succeeding taxable year shall not exceed the excess interest expense for such succeeding taxable year (determined without regard to the carryforward from the taxable year of such excess limitation).

"(iii) EXCESS LIMITATION.—For purposes of clause (i), the term 'excess limitation' means the excess (if any) of—

"(I) 50 percent of the adjusted taxable income of the corporation, over

"(II) the corporation's net interest expense.

"(C) RATIO OF DEBT TO EQUITY.—For purposes of this paragraph, the term 'ratio of debt to equity' means the ratio which the total indebtedness of the corporation bears to the sum of its money and all other assets less such total indebtedness. For purposes of the preceding sentence—

"(i) the amount taken into account with respect to any asset shall be the adjusted basis thereof for purposes of determining gain,

"(ii) the amount taken into account with respect to any indebtedness with original issue discount shall be its issue price plus the portion of the original issue discount previously accrued as determined under the rules of section 1272 (determined without regard to subsection (a)(7) or (b)(4) thereof), and

"(iii) there shall be such other adjustments as the Secretary may by regulations prescribe.

"(3) DISQUALIFIED INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'disqualified interest' means any interest paid or accrued by the taxpayer (directly or indirectly) to a related person if no tax is imposed by this subtitle with respect to such interest.

"(B) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.—The term 'disqualified interest' does not include any interest paid or accrued under indebtedness with a fixed term—

"(i) which was issued on or before July 10, 1989, or

"(ii) which was issued after such date pursuant to a written binding contract in effect on such date and all times thereafter before such indebtedness was issued.

"(4) RELATED PERSON.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(B) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—

"(i) IN GENERAL.—Any interest paid or accrued to a partnership which (without regard to this subparagraph) is a related person shall not be treated as paid or accrued to a related person if less than 10 percent of the profits and capital interests in such partnership are held by persons with respect to whom no tax is imposed by this subtitle on such interest. The preceding sentence shall not apply to any interest allocable to any partner in such partnership who is a related person to the taxpayer.

"(ii) SPECIAL RULE WHERE TREATY REDUCTION.—If any treaty between the United States and any foreign country reduces the rate of tax imposed by this subtitle on a partner's share of any interest paid or accrued to a partnership, such partner's interests in such partnership shall, for purposes of clause (i), be treated as held in part by a tax-exempt person and in part by a taxable person under rules similar to the rules of paragraph (5)(B).

"(5) SPECIAL RULES FOR DETERMINING WHETHER INTEREST IS SUBJECT TO TAX.—

"(A) TREATMENT OF PASS-THRU ENTITIES.—In the case of any interest paid or accrued to a partnership, the determination of whether any tax is imposed by this subtitle on such interest shall be made at the partner level. Rules similar to the rules of the preceding sentence shall apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(B) INTEREST TREATED AS TAX-EXEMPT TO EXTENT OF TREATY REDUCTION.—If any treaty between the United States and any foreign country reduces the rate of tax imposed by this subtitle on any interest paid or accrued by the taxpayer to a related person, such interest shall be treated as interest on which no tax is imposed by this subtitle to the extent of the same proportion of such interest as—

"(i) the rate of tax imposed without regard to such treaty, reduced by the rate of tax imposed under the treaty, bears to

"(ii) the rate of tax imposed without regard to the treaty.

"(6) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means the taxable income of the taxpayer—

"(i) computed without regard to—

"(I) any deduction allowable under this chapter for the net interest expense,

"(II) the amount of any net operating loss deduction under section 172, and

"(III) any deduction allowable for depreciation, amortization, or depletion, and

"(ii) computed with such other adjustments as the Secretary may by regulations prescribe.

"(B) NET INTEREST EXPENSE.—The term 'net interest expense' means the excess (if any) of—

"(i) the interest paid or accrued by the taxpayer during the taxable year, over

"(ii) the amount of interest includible in the gross income of such taxpayer for such taxable year.

The Secretary may by regulations provide for adjustments in determining the amount of net interest expense.

"(C) TREATMENT OF AFFILIATED GROUP.—All members of the same affiliated group (within the meaning of section 1504(a)) shall be treated as 1 taxpayer.

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including—

"(A) such regulations as may be appropriate to prevent the avoidance of the purposes of this subsection,

"(B) regulations providing such adjustments in the case of corporations which are members of an affiliated group as may be appropriate to carry out the purposes of this subsection, and

"(C) regulations for the coordination of this subsection with section 884."

26 USC 163 note. (b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to interest paid or accrued in taxable years beginning after July 10, 1989.

(2) SPECIAL RULE FOR DEMAND LOANS, ETC.—In the case of any demand loan (or other loan without a fixed term) which was outstanding on July 10, 1989, interest on such loan to the extent attributable to periods before September 1, 1989, shall not be treated as disqualified interest for purposes of section 163(j) of the Internal Revenue Code of 1986 (as added by subsection (a)).

SEC. 7211. LIMITATIONS ON REFUNDS DUE TO NET OPERATING LOSS CARRYBACKS OR EXCESS INTEREST ALLOCABLE TO CORPORATE EQUITY REDUCTION TRANSACTIONS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(M) EXCESS INTEREST LOSS.—

"(i) IN GENERAL.—If—

"(I) there is a corporate equity reduction transaction, and

"(II) an applicable corporation has a corporate equity reduction interest loss for any loss limitation year ending after August 2, 1989,

then the corporate equity reduction interest loss shall be a net operating loss carryback and carryover to the taxable years described in subparagraphs (A) and (B), except that such loss shall not be carried back to a taxable year preceding the taxable year in which the corporate equity reduction transaction occurs.

"(ii) LOSS LIMITATION YEAR.—For purposes of clause (i) and subsection (m), the term 'loss limitation year' means, with respect to any corporate equity reduction transaction, the taxable year in which such transaction occurs and each of the 2 succeeding taxable years.

"(iii) APPLICABLE CORPORATION.—For purposes of clause (i), the term 'applicable corporation' means a C corporation—

"(I) which acquires stock, or the stock of which is acquired, in a major stock acquisition,

"(II) a corporation making distributions with respect to, or redeeming, its stock in connection with an excess distribution, or

"(III) any successor corporation of a corporation described in subclause (I) or (II).

"(iv) OTHER DEFINITIONS.—

"For definitions of terms used in this subparagraph, see subsection (m)."

(b) CORPORATE EQUITY REDUCTION INTEREST LOANS AND CORPORATE EQUITY REDUCTION TRANSACTION DEFINED.—Section 172 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CORPORATE EQUITY REDUCTION INTEREST LOSSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'corporate equity reduction interest loss' means, with respect to any loss limitation year, the excess (if any) of—

"(A) the net operating loss for such taxable year, over

"(B) the net operating loss for such taxable year determined without regard to any allocable interest deductions otherwise taken into account in computing such loss.

"(2) ALLOCABLE INTEREST DEDUCTIONS.—

"(A) IN GENERAL.—The term 'allocable interest deductions' means deductions allowed under this chapter for interest on the portion of any indebtedness allocable to a corporate equity reduction transaction.

"(B) METHOD OF ALLOCATION.—Except as provided in regulations and subparagraph (E), indebtedness shall be allocated to a corporate equity reduction transaction in the manner prescribed under clause (ii) of section 263A(f)(2)(A) (without regard to clause (i) thereof).

"(C) ALLOCABLE DEDUCTIONS NOT TO EXCEED INTEREST INCREASES.—Allocable interest deductions for any loss limitation year shall not exceed the excess (if any) of—

"(i) the amount allowable as a deduction for interest paid or accrued by the taxpayer during the loss limitation year, over

"(ii) the average of such amounts for the 3 taxable years preceding the taxable year in which the corporate equity reduction transaction occurred.

"(D) DE MINIMIS RULE.—A taxpayer shall be treated as having no allocable interest deductions for any taxable year if the amount of such deductions (without regard to this subparagraph) is less than $1,000,000.

"(E) SPECIAL RULE FOR CERTAIN UNFORESEEABLE EVENTS.—If an unforeseeable extraordinary adverse event occurs during a loss limitation year but after the corporate equity reduction transaction—

"(i) indebtedness shall be allocated in the manner described in subparagraph (B) to unreimbursed costs paid or incurred in connection with such event before being allocated to the corporate equity reduction transaction, and

"(ii) the amount determined under subparagraph (C)(i) shall be reduced by the amount of interest on indebtedness described in clause (i).

"(F) Transition rule.—If any of the 3 taxable years described in subparagraph (C)(ii) end on or before August 2, 1989, the taxpayer may substitute for the amount determined under such subparagraph an amount equal to the interest paid or accrued (determined on an annualized basis) during the taxpayer's taxable year which includes August 3, 1989, on indebtedness of the taxpayer outstanding on August 2, 1989.

"(3) Corporate equity reduction transaction.—

"(A) In general.—The term 'corporate equity reduction transaction' means—

"(i) a major stock acquisition, or

"(ii) an excess distribution.

"(B) Major stock acquisition.—

"(i) In general.—The term 'major stock acquisition' means the acquisition by a corporation pursuant to a plan of such corporation (or any group of persons acting in concert with such corporation) of stock in another corporation representing 50 percent or more (by vote or value) of the stock in such other corporation,

"(ii) Exceptions.—The term 'major stock acquisition' shall not include—

"(I) a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies, or

"(II) except as provided in regulations, an acquisition in which a corporation acquires stock of another corporation which, immediately before the acquisition, was a member of an affiliated group (within the meaning of section 1504(a)) other than the common parent of such group.

"(C) Excess distribution.—The term 'excess distribution' means the excess (if any) of—

"(i) the aggregate distributions (including redemptions) made during a taxable year by a corporation with respect to its stock, over

"(ii) the greater of—

"(I) 150 percent of the average of such distributions during the 3 taxable years immediately preceding such taxable year, or

"(II) 10 percent of the fair market value of the stock of such corporation as of the beginning of such taxable year.

"(D) Rules for applying subparagraph (b).—For purposes of subparagraph (B)—

"(i) Plans to acquire stock.—All plans referred to in subparagraph (B) by any corporation (or group of persons acting in concert with such corporation) with respect to another corporation shall be treated as 1 plan.

"(ii) ACQUISITIONS DURING 24-MONTH PERIOD.—All acquisitions during any 24-month period shall be treated as pursuant to 1 plan.

"(E) RULES FOR APPLYING SUBPARAGRAPH (C).—For purposes of subparagraph (C)—

"(i) CERTAIN PREFERRED STOCK DISREGARDED.—Stock described in section 1504(a)(4), and distributions (including redemptions) with respect to such stock, shall be disregarded.

"(ii) ISSUANCE OF STOCK.—The amounts determined under clauses (i) and (ii)(I) of subparagraph (C) shall be reduced by the aggregate amount of stock issued by the corporation during the applicable period in exchange for money or property other than stock in the corporation.

"(4) OTHER RULES.—

"(A) ORDERING RULE.—For purposes of paragraph (1), in determining the allocable interest deductions taken into account in computing the net operating loss for any taxable year, taxable income for such taxable year shall be treated as having been computed by taking allocable interest deductions into account after all other deductions.

"(B) COORDINATION WITH SUBSECTION (B)(2).—In applying paragraph (2) of subsection (b), the corporate equity reduction interest loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.

"(C) MEMBERS OF AFFILIATED GROUPS.—Except as provided by regulations, all members of an affiliated group filing a consolidated return under section 1501 shall be treated as 1 taxpayer for purposes of this subsection and subsection (b)(1)(M).

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations—

"(A) for applying this subsection to successor corporations and in cases where a taxpayer becomes, or ceases to be, a member of an affiliated group filing a consolidated return under section 1501,

"(B) to prevent the avoidance of this subsection through related parties, pass-through entities, and intermediaries, and

"(C) for applying this subsection where more than 1 corporation is involved in a corporate equity reduction transaction.

(c) EFFECTIVE DATE.— 26 USC 172 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to corporate equity reduction transactions occurring after August 2, 1989, in taxable years ending after August 2, 1989.

(2) EXCEPTIONS.—In determining whether a corporate equity reduction transaction has occurred after August 2, 1989, there shall not be taken into account—

(A) acquisitions or redemptions of stock, or distributions with respect to stock, occurring on or before August 2, 1989,

(B) acquisitions or redemptions of stock after August 2, 1989, pursuant to a binding written contract (or tender offer filed with the Securities and Exchange Commission) in effect on August 2, 1989, and at all times thereafter before such acquisition or redemption, or

(C) any distribution with respect to stock after August 2, 1989, which was declared on or before August 2, 1989.

Any distribution to which the preceding sentence applies shall be taken into account under section 172(m)(3)(C)(ii)(I) of the Internal Revenue Code of 1986 (relating to base period for distributions).

Subtitle C—Employee Benefit Provisions

PART I—EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 7301. LIMITATIONS ON PARTIAL EXCLUSION OF INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) Exclusion Available Only Where Employees Receive Significant Ownership Interest.—Subsection (b) of section 133 (defining securities acquisition loans) is amended by adding at the end thereof the following new paragraph:

"(6) Plan must hold more than 50 percent of stock after acquisition or transfer.—

"(A) In general.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless, immediately after the acquisition or transfer referred to in subparagraph (A) or (B) of paragraph (1), respectively, the employee stock ownership plan owns more than 50 percent of—

"(i) each class of outstanding stock of the corporation issuing the employer securities, or

"(ii) the total value of all outstanding stock of the corporation.

"(B) Failure to retain minimum stock interest.—

"(i) In general.—Subsection (a) shall not apply to any interest received with respect to a securities acquisition loan which is allocable to any period during which the employee stock ownership plan does not own stock meeting the requirements of subparagraph (A).

"(ii) Exception.—To the extent provided by the Secretary, clause (i) shall not apply to any period if, within 90 days of the first date on which the failure occurred (or such longer period not in excess of 180 days as the Secretary may prescribe), the plan acquires stock which results in its meeting the requirements of subparagraph (A).

"(C) Stock.—For purposes of subparagraph (A)—

"(i) In general.—The term 'stock' means stock other than stock described in section 1504(a)(4).

"(ii) Treatment of certain rights.—The Secretary may provide that warrants, options, contracts to acquire stock, convertible debt interests and other similar interests be treated as stock for 1 or more purposes under subparagraph (A).

"(D) Aggregation rule.—For purposes of determining whether the requirements of subparagraph (A) are met, an employee stock ownership plan shall be treated as owning stock in the corporation issuing the employer securities which is held by any other employee stock ownership plan which is maintained by—

"(i) the employer maintaining the plan, or

"(ii) any member of a controlled group of corporations (within the meaning of section 409(l)(4)) of which the employer described in clause (i) is a member."

(b) Term of Loan May Not Exceed 15 Years.—Paragraph (1) of section 133(b) is amended by adding at the end thereof the following new sentence: "The term 'securities acquisition loan' shall not include a loan with a term greater than 15 years."

(c) Voting Rights.—Subsection (b) of section 133, as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(7) Voting rights of employer securities.—A loan shall not be treated as a securities acquisition loan for purposes of this section unless—

"(A) the employee stock ownership plan meets the requirements of section 409(e)(2) with respect to all employer securities acquired by, or transferred to, the plan in connection with such loan (without regard to whether or not the employer has a registration-type class of securities), and

"(B) no stock described in section 409(l)(3) is acquired by, or transferred to, the plan in connection with such loan unless—

"(i) such stock has voting rights equivalent to the stock to which it may be converted, and

"(ii) the requirements of subparagraph (A) are met with respect to such voting rights.".

(d) Tax on Disposition of Securities by Employee Stock Ownership Plans.—

(1) In general.—Chapter 43 is amended by inserting after section 4978A the following new section:

"SEC. 4978B. TAX ON DISPOSITION OF EMPLOYER SECURITIES TO WHICH SECTION 133 APPLIED.

"(a) Imposition of Tax.—In the case of an employee stock ownership plan which has acquired section 133 securities, there is hereby imposed a tax on each taxable event in an amount equal to the amount determined under subsection (b).

"(b) Amount of Tax.—

"(1) In general.—The amount of the tax imposed by subsection (a) shall be equal to 10 percent of the amount realized on the disposition to the extent allocable to section 133 securities under section 4978(b)(2).

"(2) Dispositions other than sales or exchanges.—For purposes of paragraph (1), in the case of a disposition of employer securities which is not a sale or exchange, the amount realized on such disposition shall be the fair market value of such securities at the time of disposition.

"(c) Taxable Event.—For purposes of this section, the term 'taxable event' means any of the following dispositions:

"(1) Dispositions within 3 years.—Any disposition of any employer securities by an employee stock ownership plan within 3 years after such plan acquired section 133 securities if—

"(A) the total number of employer securities held by such plan after such disposition is less than the total number of employer securities held after such acquisition, or

"(B) except to the extent provided in regulations, the value of employer securities held by such plan after the disposition is 50 percent or less of the total value of all employer securities as of the time of the disposition.

For purposes of subparagraph (B), the aggregation rule of section 133(b)(6)(D) shall apply.

"(2) STOCK DISPOSED OF BEFORE ALLOCATION.—Any disposition of section 133 securities to which paragraph (1) does not apply if—

"(A) such disposition occurs before such securities are allocated to accounts of participants or their beneficiaries, and

"(B) the proceeds from such disposition are not so allocated.

"(d) SECTION NOT TO APPLY TO CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—This section shall not apply to any disposition described in paragraph (1), (3), or (4) of section 4978(d).

"(2) CERTAIN REORGANIZATIONS.—For purposes of this section, any exchange of section 133 securities for employer securities of another corporation in any reorganization described in section 368(a)(1) shall not be treated as a disposition, but the employer securities received shall be treated as section 133 securities and as having been held by the plan during the period the securities which were exchanged were held.

"(3) FORCED DISPOSITION OCCURRING BY OPERATION OF STATE LAW.—Any forced disposition of section 133 securities by an employee stock ownership plan occurring by operation of a State law shall not be treated as a disposition. This paragraph shall only apply to securities which, at the time the securities were acquired by the plan, were regularly traded on an established securities market.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by the employer.

"(2) SECTION 133 SECURITIES.—The term 'section 133 securities' means employer securities acquired by an employee stock ownership plan in a transaction to which section 133 applied, except that such term shall not include—

"(A) qualified securities (as defined in section 4978(e)(2)), or

"(B) qualified employer securities (as defined in section 4978A(f)(2), as in effect on the day before the date of the enactment of this section).

"(3) DISPOSITION.—The term 'disposition' includes any distribution.

"(4) ORDERING RULES.—For ordering rules for dispositions of employer securities, see section 4978(b)(2)."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by inserting after the item relating to section 4978A the following new item:

"Sec. 4978B. Tax on disposition of employer securities to which section 133 applied.".

(e) Reporting Requirements.—Section 6047 (relating to information reports relating to certain trusts or annuity plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Employee Stock Ownership Plans.—The Secretary shall require—

"(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan—

"(A) which acquired stock in a transaction to which section 133 applies, or

"(B) which holds stock with respect to which section 404(k) applies to dividends paid on such stock,

"(2) any person making or holding a loan to which section 133 applies, or

"(3) both such employer or plan administrator and such person,

to make returns and reports regarding such plan, transaction, or loan to the Secretary and to such other persons as the Secretary may prescribe. Such returns and reports shall be made in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe."

(f) Effective Dates.— 26 USC 133 note.

(1) In general.—Except as provided in this subsection, the amendments made by this section shall apply to loans made after July 10, 1989.

(2) Binding commitment exceptions.—

(A) The amendments made by this section shall not apply to any loan—

(i) which is made pursuant to a binding written commitment in effect on June 6, 1989, and at all times thereafter before such loan is made, or

(ii) to the extent that the proceeds of such loan are used to acquire employer securities pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission) in effect on June 6, 1989, and at all times thereafter before such securities are acquired.

(B) The amendments made by this section shall not apply to any loan to which subparagraph (A) does not apply which is made pursuant to a binding written commitment in effect on July 10, 1989, and at all times thereafter before such loan is made. The preceding sentence shall only apply to the extent that the proceeds of such loan are used to acquire employer securities pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission) in effect on July 10, 1989, and at all times thereafter before such securities are acquired.

(C) The amendments made by this section shall not apply to any loan made on or before July 10, 1992, pursuant to a written agreement entered into on or before July 10, 1989, if such agreement evidences the intent of the borrower on a periodic basis to enter into securities acquisition loans described in section 133(b)(1)(B) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act). The preceding sentence shall apply only if one or more securities acquisition loans were made to the borrower on or before July 10, 1989.

(3) REFINANCINGS.—The amendments made by this section shall not apply to loans made after July 10, 1989, to refinance securities acquisition loans (determined without regard to section 133(b)(2) of the Internal Revenue Code of 1986) made on or before such date or to refinance loans described in this paragraph or paragraph (2), (4), or (5) if—

(A) such refinancing loans meet the requirements of such section 133 of such Code (as in effect before such amendments) applicable to such loans,

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the later of—

(i) the last day of the term of the original securities acquisition loan, or

(ii) the last day of the 7-year period beginning on the date the original securities acquisition loan was made.

For purposes of this paragraph, the term "securities acquisition loan" shall include a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code.

(4) COLLECTIVE BARGAINING AGREEMENTS.—The amendments made by this section shall not apply to any loan to the extent such loan is used to acquire employer securities for an employee stock ownership plan pursuant to a collective bargaining agreement which sets forth the material terms of such employee stock ownership plan and which was agreed to on or before June 6, 1989, by one or more employers and employee representatives (and ratified on or before such date or within a reasonable period thereafter).

(5) FILINGS WITH UNITED STATES.—The amendments made by this section shall not apply to any loan the aggregate principal amount of which was specified in a filing with an agency of the United States on or before June 6, 1989, if—

(A) such filing specifies such loan is to be a securities acquisition loan for purposes of section 133 of the Internal Revenue Code of 1986 and such filing is for the registration required to permit the offering of such loan, or

(B) such filing is for the approval required in order for the employee stock ownership plan to acquire more than a certain percentage of the stock of the employer.

(6) 30-PERCENT TEST SUBSTITUTED FOR 50-PERCENT TEST IN CASE OF CERTAIN LOANS.—In the case of a loan to which the amendments made by this section apply—

(A) which is made before November 18, 1989, or

(B) with respect to which such amendments would not apply if paragraph (2)(A) were applied by substituting "November 17, 1989" for "June 6, 1989" each place it appears,

section 133(b)(6)(A) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall be applied by substituting "at least 30 percent" for "more than 50 percent" and section 4978B(c)(1)(B) of such Code (as added by subsection (d)) shall be applied by substituting "less than 30 percent" for "50 percent or less". The preceding sentence shall apply to any loan which is used to refinance a loan described in such sentence if the requirements of subparagraphs (A), (B), and (C) of paragraph (3) are met with respect to the refinancing loan.

SEC. 7302. LIMITATIONS ON DEDUCTIONS FOR DIVIDENDS PAID ON EMPLOYER SECURITIES.

(a) IN GENERAL.—Subsection (k) of section 404 is amended to read as follows:

"(k) DEDUCTION FOR DIVIDENDS PAID ON CERTAIN EMPLOYER SECURITIES.—

"(1) GENERAL RULE.—In the case of a corporation, there shall be allowed as a deduction for a taxable year the amount of any applicable dividend paid in cash by such corporation during the taxable year with respect to applicable employer securities. Such deduction shall be in addition to the deductions allowed under subsection (a).

"(2) APPLICABLE DIVIDEND.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable dividend' means any dividend which, in accordance with the plan provisions—

"(i) is paid in cash to the participants in the plan or their beneficiaries,

"(ii) is paid to the plan and is distributed in cash to participants in the plan or their beneficiaries not later than 90 days after the close of the plan year in which paid, or

"(iii) is used to make payments on a loan described in subsection (a)(9) the proceeds of which were used to acquire the employer securities (whether or not allocated to participants) with respect to which the dividend is paid.

"(B) LIMITATION ON CERTAIN DIVIDENDS.—A dividend described in subparagraph (A)(iii) which is paid with respect to any employer security which is allocated to a participant shall not be treated as an applicable dividend unless the plan provides that employer securities with a fair market value of not less than the amount of such dividend are allocated to such participant for the year which (but for subparagraph (A)) such dividend would have been allocated to such participant.

"(3) APPLICABLE EMPLOYER SECURITIES.—For purposes of this subsection, the term 'applicable employer securities' means, with respect to any dividend, employer securities which are held on the record date for such dividend by an employee stock ownership plan which is maintained by—

"(A) the corporation paying such dividend, or

"(B) any other corporation which is a member of a controlled group of corporations (within the meaning of section 409(l)(4)) which includes such corporation.

"(4) TIME FOR DEDUCTION.—

"(A) IN GENERAL.—The deduction under paragraph (1) shall be allowable in the taxable year of the corporation in which the dividend is paid or distributed to a participant or his beneficiary.

"(B) Repayment of loans.—In the case of an applicable dividend described in clause (iii) of paragraph (2)(A), the deduction under paragraph (1) shall be allowable in the taxable year of the corporation in which such dividend is used to repay the loan described in such clause.

"(5) Other rules.—For purposes of this subsection—

"(A) Disallowance of deduction.—The Secretary may disallow the deduction under paragraph (1) for any dividend if the Secretary determines that such dividend constitutes, in substance, an evasion of taxation.

"(B) Plan qualification.—A plan shall not be treated as violating the requirements of section 401, 409, or 4975(e)(7), or as engaging in a prohibited transaction for purposes of section 4975(d)(3), merely by reason of any payment or distribution described in paragraph (2)(A).

"(6) Definitions.—For purposes of this subsection—

"(A) Employer securities.—The term 'employer securities' has the meaning given such term by section 409(l).

"(B) Employee stock ownership plan.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7). Such term includes a tax credit employee stock ownership plan (as defined in section 409)."

26 USC 404 note.

(b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to employer securities acquired after August 4, 1989.

(2) Securities acquired with certain loans.—The amendment made by this section shall not apply to employer securities acquired after August 4, 1989, which are acquired—

(A) with the proceeds of any loan which was made pursuant to a binding written commitment in effect on August 4, 1989, and at all times thereafter before such loan is made, and

(B) pursuant to a written binding contract (or tender offer registered with the Securities and Exchange Commission) in effect on August 4, 1989, and at all times thereafter before such securities are acquired.

SEC. 7303. 3-YEAR HOLDING PERIOD REQUIRED BEFORE SECTION 1042 SALE.

(a) In General.—Section 1042(b) (relating to requirements to qualify for nonrecognition) is amended by adding at the end thereof the following new paragraph:

"(4) 3-year holding period.—The taxpayer's holding period with respect to the qualified securities is at least 3 years (determined as of the time of the sale)."

26 USC 1042 note.

(b) Effective Date.—The amendment made by this section shall apply to sales after July 10, 1989.

SEC. 7304. REPEAL OF CERTAIN PROVISIONS RELATING TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) Estate Tax Deduction.—

(1) In general.—Section 2057 (relating to sales of employer securities to employee stock ownership plans or worker-owned corporations) is hereby repealed.

(2) Conforming amendments.—

(A) Paragraph (1) of section 409(n) is amended—

(i) by striking "or section 2057" each place it appears,

(ii) by striking "or any decedent if the executor of the estate of such decedent makes a qualified sale to which section 2057 applies" in subparagraph (A)(i) thereof, and

(iii) by striking "or the decedent" in subparagraph (A)(ii) thereof.

(B) Paragraphs (2)(C)(i) and (3)(A)(ii) of section 409(n) are each amended by striking "or section 2057".

(C)(i) Section 4978A is hereby repealed.

(ii) Section 4978(b)(2) is amended by striking "(determined as if such securities were disposed of in the order described in section 4978A(e))." and inserting "determined as if such securities were disposed of—

"(A) first, from section 133 securities (as defined in section 4978B(e)(2)) acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(B) second, from section 133 securities (as so defined) acquired before such 3-year period unless such securities (or proceeds from the disposition) have been allocated to accounts of participants or beneficiaries."

"(C) third, from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

"(D) then from any other employer securities.

If subsection (d) or section 4978B(d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence."

(iii) The table of sections for chapter 43 is amended by striking the item relating to section 4978A.

(D) Section 4979A is amended—

(i) by striking "or section 2057" in subsection (b)(1), and

(ii) by striking "or section 2057(d)" in subsection (c)(2).

(E) The table of sections for part IV of subchapter A of chapter 11 is amended by striking the item relating to section 2057.

(3) **Effective date.**—The amendments made by this subsection shall apply to the estates of decedents dying after the date of the enactment of this Act. 26 USC 409 note.

(b) **Liability for Payment of Estate Tax.**—

(1) **In general.**—Section 2210 (relating to liability for payment in case of transfer of employer securities) is hereby repealed.

(2) **Conforming amendments.**—

(A) Section 2002 is amended by striking "Except as provided in section 2210, the" and inserting "The".

(B) Section 6018 is amended by striking subsection (c).

(C) The table of sections for subchapter C of chapter 11 is amended by striking the item relating to section 2210.

(3) **Effective date.**—The amendments made by this subsection shall apply to estates of decedents dying after July 12, 1989. 26 USC 2002 note.

(c) **Limitations on Defined Contribution Plans.**—

(1) **In general.**—Paragraph (6) of section 415(c) is amended to read as follows:

"(6) Special rule for employee stock ownership plans.—If no more than one-third of the employer contributions to an employee stock ownership plan (as described in section 4975(e)(7)) for a year which are deductible under paragraph (9) of section 404(a) are allocated to highly compensated employees (within the meaning of section 414(q)), the limitations imposed by this section shall not apply to—

"(A) forfeitures of employer securities (within the meaning of section 409) under such an employee stock ownership plan if such securities were acquired with the proceeds of a loan (as described in section 404(a)(9)(A)), or

"(B) employer contributions to such an employee stock ownership plan which are deductible under section 404(a)(9)(B) and charged against the participant's account."

26 USC 415 note. (2) Effective date.—The amendment made by this subsection shall apply to years beginning after July 12, 1989.

(d) Special Rules Relating to Net Operating Losses.—

(1) In general.—Section 382(l)(3) is amended by striking subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

26 USC 382 note. (2) Effective date.—The amendments made by this subsection shall apply to acquisitions of employer securities after July 12, 1989, except that such amendments shall not apply to acquisitions after July 12, 1989, pursuant to a written binding contract in effect on July 12, 1989, and at all times thereafter before such acquisition.

PART II—SECTION 401(H) ACCOUNTS

SEC. 7311. LIMITATION ON CONTRIBUTIONS TO SECTION 401(h) ACCOUNTS.

(a) In General.—Section 401(h) is amended by adding at the end thereof the following new sentence: "In no event shall the requirements of paragraph (1) be treated as met if the aggregate actual contributions for medical benefits, when added to actual contributions for life insurance protection under the plan, exceed 25 percent of the total actual contributions to the plan (other than contributions to fund past service credits) after the date on which the account is established."

26 USC 401 note. (b) Effective Date.—

(1) In general.—The amendment made by this section shall apply to contributions after October 3, 1989.

(2) Transition.—The amendment made by this section shall not apply to contributions made before January 1, 1990, if—

(A) the employer requested before October 3, 1989, a private letter ruling or determination letter with respect to the qualification of the plan maintaining the account under section 401(h) of the Internal Revenue Code of 1986,

(B) the request sets forth a method under which the amount of contributions to the account are to be determined on the basis of cost,

(C) such method is permissible under section 401(h) of such Code under the provisions of General Counsel Memorandum 39785, and

(D) the Internal Revenue Service issued before October 4, 1989, a private letter ruling, determination letter, or other letter providing that the specific plan involved qualifies under section 401(a) of such Code when such method is used, that contributions to the account are deductible, or acknowledging that the account would not adversely affect the qualified status of the plan (contingent on all phases of the particular plan being approved).

Subtitle D—Foreign Provisions

SEC. 7401. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

(a) General Rule.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 898. TAXABLE YEAR OF CERTAIN FOREIGN CORPORATIONS.

"(a) General Rule.—For purposes of this title, the taxable year of any specified foreign corporation shall be the required year determined under subsection (c).

"(b) Specified Foreign Corporation.—For purposes of this section—

"(1) In general.—The term 'specified foreign corporation' means any foreign corporation—

"(A) which is—

"(i) treated as a controlled foreign corporation for any purpose under subpart F of part III of this subchapter, or

"(ii) a foreign personal holding company (as defined in section 552), and

"(B) with respect to which the ownership requirements of paragraph (2) are met.

"(2) Ownership requirements.—

"(A) In general.—The ownership requirements of this paragraph are met with respect to any foreign corporation if a United States shareholder owns, on each testing day, more than 50 percent of—

"(i) the total voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of all classes of stock of such corporation.

"(B) Ownership.—For purposes of subparagraph (A), the rules of subsections (a) and (b) of section 958 and sections 551(f) and 554, whichever are applicable, shall apply in determining ownership.

"(3) United states shareholder.—

"(A) In general.—The term 'United States shareholder' has the meaning given to such term by section 951(b), except that, in the case of a foreign corporation having related person insurance income (as defined in section 953(c)(2)), the Secretary may treat any person as a United States shareholder for purposes of this section if such person is treated as a United States shareholder under section 953(c)(1).

"(B) Foreign personal holding companies.—In the case of any foreign personal holding company (as defined in section 552) which is not a specified foreign corporation by reason of paragraph (1)(A)(i), the term 'United States shareholder' means any person who is treated as a United States shareholder under section 551.

"(c) DETERMINATION OF REQUIRED YEAR.—

"(1) CONTROLLED FOREIGN CORPORATIONS.—

"(A) IN GENERAL.—In the case of a specified foreign corporation described in subsection (b)(1)(A)(i), the required year is—

"(i) the majority U.S. shareholder year, or

"(ii) if there is no majority U.S. shareholder year, the taxable year prescribed under regulations.

"(B) 1-MONTH DEFERRAL ALLOWED.—A specified foreign corporation may elect, in lieu of the taxable year under subparagraph (A)(i), a taxable year beginning 1 month earlier than the majority U.S. shareholder year.

"(C) MAJORITY U.S. SHAREHOLDER YEAR.—

"(i) IN GENERAL.—For purposes of this subsection, the term 'majority U.S. shareholder year' means the taxable year (if any) which, on each testing day, constituted the taxable year of—

"(I) each United States shareholder described in subsection (b)(2)(A), and

"(II) each United States shareholder not described in subclause (I) whose stock was treated as owned under subsection (b)(2)(B) by any shareholder described in such subclause.

"(ii) TESTING DAY.—The testing days shall be—

"(I) the first day of the corporation's taxable year (determined without regard to this section), or

"(II) the days during such representative period as the Secretary may prescribe.

"(2) FOREIGN PERSONAL HOLDING COMPANIES.—In the case of a foreign personal holding company described in subsection (b)(3)(B), the required year shall be determined under paragraph (1), except that subparagraph (B) of paragraph (1) shall not apply."

(b) TREATMENT OF DIVIDENDS PAID AFTER CLOSE OF TAXABLE YEAR.—

(1) IN GENERAL.—Section 563 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) FOREIGN PERSONAL HOLDING COMPANY TAX.—

"(1) IN GENERAL.—In the determination of the dividends paid deduction for purposes of part III, a dividend paid after the close of any taxable year and on or before the 15th day of the 3rd month following the close of such taxable year shall, to the extent the company designates such dividend as being taken into account under this subsection, be considered as paid during such taxable year. The amount allowed as a deduction by reason of the application of this subsection with respect to any taxable year shall not exceed the undistributed foreign personal holding company income of the corporation for the taxable year computed without regard to this subsection.

"(2) SPECIAL RULES.—In the case of any distribution referred to in paragraph (1)—

"(A) paragraph (1) shall apply only if such distribution is to the person who was the shareholder of record (as of the last day of the taxable year of the foreign personal holding company) with respect to the stock for which such distribution is made,

"(B) the determination of the person required to include such distribution in gross income shall be made under the principles of section 551(f), and

"(C) any person required to include such distribution in gross or distributable net income shall include such distribution in income for such person's taxable year in which the taxable year of the foreign personal holding company ends."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 563 (as redesignated by paragraph (1)) is amended by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (c)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 898. Taxable year of certain foreign corporations."

(d) EFFECTIVE DATE.— 26 USC 898 note.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after July 10, 1989.

(2) SPECIAL RULES.—If any foreign corporation is required by the amendments made by this section to change its taxable year for its first taxable year beginning after July 10, 1989—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate, and

(C) if, by reason of such change, any United States person is required to include in gross income for 1 taxable year amounts attributable to 2 taxable years of such foreign corporation, the amount which would otherwise be required to be included in gross income for such 1 taxable year by reason of the short taxable year of the foreign corporation resulting from such change shall be included in gross income ratably over the 4-taxable-year period beginning with such 1 taxable year.

SEC. 7402. LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATION ON USE OF DECONSOLIDATION TO AVOID FOREIGN TAX CREDIT LIMITATIONS.—If 2 or more domestic corporations would be members of the same affiliated group if—

"(1) section 1504(b) were applied without regard to the exceptions contained therein, and

"(2) the constructive ownership rules of section 1563(e) applied for purposes of section 1504(a),

the Secretary may by regulations provide for resourcing the income of any of such corporations or for modifications to the consolidated return regulations to the extent that such resourcing or modifications are necessary to prevent the avoidance of the provisions of this subpart."

26 USC 904 note. (b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after July 10, 1989.

SEC. 7403. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) 25-Percent Foreign-Owned Corporations Required to Report.—

(1) Paragraph (2) of section 6038A(a) is amended to read as follows:

"(2) is 25-percent foreign-owned,".

(2) Subsection (c) of section 6038A is amended to read as follows:

"(c) Definitions.—For purposes of this section—

"(1) 25-percent foreign-owned.—A corporation is 25-percent foreign-owned if at least 25 percent of—

"(A) the total voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of all classes of stock of such corporation,

is owned at any time during the taxable year by 1 foreign person (hereinafter in this section referred to as a '25-percent foreign shareholder').

"(2) Related party.—The term 'related party' means—

"(A) any 25-percent foreign shareholder of the reporting corporation,

"(B) any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the reporting corporation or to a 25-percent foreign shareholder of the reporting corporation, and

"(C) any other person who is related (within the meaning of section 482) to the reporting corporation.

"(4) Foreign person.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30), except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(5) Records.—The term 'records' includes any books, papers, or other data.

"(6) Section 318 to apply.—Section 318 shall apply for purposes of paragraphs (1) and (2), except that—

"(A) '10 percent' shall be substituted for '50 percent' in section 318(a)(2)(C), and

"(B) subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person."

Regulations. (b) U.S. Recordkeeping Requirements.—Subsection (a) of section 6038A is amended by inserting before the period at the end thereof the following: "and such corporation shall maintain (in the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the correct treatment of transactions with related parties as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records)".

(c) INCREASE IN PENALTY.—Subsection (d) of section 6038A is amended to read as follows:

"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—

"(1) IN GENERAL.—If a reporting corporation—

"(A) fails to furnish (within the time prescribed by regulations) any information described in subsection (b), or

"(B) fails to maintain (or cause another to maintain) records as required by subsection (a),

such corporation shall pay a penalty of $10,000 for each taxable year with respect to which such failure occurs.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information or maintain records (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information or maintain the records."

(d) ENFORCEMENT OF INFORMATION REQUESTS.—Section 6038A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the correct treatment under this title of any transaction between the reporting corporation and a related party who is a foreign person, the Secretary issues a summons to such corporation to produce (either directly or as agent for such related party) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

Mail.

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to such transaction (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction to which the records relate.

"(3) APPLICABLE RULES IN CASES OF NONCOMPLIANCE.—If the rules of this paragraph apply to any transaction—

"(A) the amount of the deduction allowed under subtitle A for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction, and

Real property.

"(B) the cost to the reporting corporation of any property acquired in such transaction from the related party (or transferred by such corporation in such transaction to the related party),

shall be the amount determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—

"(A) PROCEEDINGS TO QUASH.—Notwithstanding any law or rule of law, any reporting corporation to which the Secretary issues a summons referred to in paragraph (2)(A) shall have the right to begin a proceeding to quash such summons not later than the 90th day after such summons was issued. In any such proceeding, the Secretary may seek to compel compliance with such summons.

"(B) REVIEW OF SECRETARIAL DETERMINATION OF NONCOMPLIANCE.—Notwithstanding any law or rule of law, any reporting corporation which has been notified by the Secretary that the Secretary has determined that such corporation has not substantially complied with a summons referred to in paragraph (2) shall have the right to begin a proceeding to review such determination not later than the 90th day after the day on which the notice referred to in paragraph (2)(C) was mailed. If such a proceeding is not begun on or before such 90th day, such determination by the Secretary shall be binding and shall not be reviewed by any court.

"(C) JURISDICTION.—The United States district court for the district in which the person (to whom the summons is issued) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A) or (B). Any order or other determination in such a proceeding shall be treated as a final order which may be appealed.

"(D) SUSPENSION OF STATUTE OF LIMITATIONS.—If the reporting corporation brings an action under subparagraph

(A) or (B), the running of any period of limitations under section 6501 (relating to assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to any transaction to which the summons relates shall be suspended for the period during which such proceeding, and appeals therein, are pending. In no event shall any such period expire before the 90th day after the day on which there is a final determination in such proceeding."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after July 10, 1989. 26 USC 6038A note.

SEC. 7404. REPEAL OF SPECIAL TREATMENT OF INTEREST ON CERTAIN FOREIGN LOANS.

(a) GENERAL RULE.—Paragraph (2) of section 1201(e) of the Tax Reform Act of 1986 is hereby repealed. 26 USC 904 note.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to taxable years beginning after December 31, 1989. 26 USC 904 note.

(c) EXCEPTION FOR CERTAIN TAXPAYERS WITH SUBSTANTIAL LOAN LOSS RESERVES.— 26 USC 904 note.

(1) IN GENERAL.—The repeal made by subsection (a) shall not apply to any taxpayer if, on any financial statement filed by such taxpayer for regulatory purposes with respect to any quarter ending during the period beginning on March 31, 1989, and ending on December 31, 1989, such taxpayer showed loss reserves against its qualified loans equal to at least 25 percent of the amount of such loans.

(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED LOAN.—The term "qualified loan" has the meaning given such term by section 1201(e)(2)(H) of the Tax Reform Act of 1986 (as in effect before its repeal by subsection (a)).

(B) PARENT-SUBSIDIARY CONTROLLED GROUPS.—In the case of any taxpayer which is a member of a parent-subsidiary controlled group (as defined in section 585(c)(5)(A)), this subsection shall be applied by treating all members of such group as 1 taxpayer.

Subtitle E—Excise Tax Provisions

SEC. 7501. 1-YEAR SUSPENSION OF AUTOMATIC REDUCTION IN AVIATION-RELATED TAXES.

(a) IN GENERAL.—Subsection (a) of section 4283 (relating to reduction in aviation-related taxes in certain cases) is amended by striking "1990" and inserting "1991".

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 4283(b)(1)(A) is amended by striking "1988 and 1989" and inserting "1989 and 1990".

(2) Paragraph (3) of section 4283(b) is amended—

(A) by striking "1990" and inserting "1991", and

(B) by striking "1989" and inserting "1990".

(3) Subsection (q) of section 6427 is amended by striking "1990" each place it appears and inserting "1991".

SEC. 7502. ACCELERATION OF DEPOSIT REQUIREMENTS FOR AIRLINE TICKET TAX.

(a) IN GENERAL.—Section 6302 (relating to mode or time of collection) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TIME FOR DEPOSIT OF TAXES ON AIRLINE TICKETS.—If, under regulations prescribed by the Secretary, a person is required to make deposits of any tax imposed by subsection (a) or (b) of section 4261 with respect to amounts considered collected by such person during any semimonthly period, such deposit shall be made not later than the 3rd day (not including Saturdays, Sundays, or legal holidays) after the close of the 1st week of the 2nd semimonthly period following the period to which such amounts relate."

26 USC 6302 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments of taxes considered collected for semimonthly periods beginning after June 30, 1990.

SEC. 7503. INCREASE IN INTERNATIONAL AIR PASSENGER DEPARTURE TAX.

(a) IN GENERAL.—Section 4261(c) (relating to tax on use of international travel facilities) is amended by striking "$3" and inserting "$6".

26 USC 4261 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after December 31, 1989, which was not paid for before such date.

SEC. 7504. SHIP PASSENGERS INTERNATIONAL DEPARTURE TAX.

(a) IN GENERAL.—Chapter 36 (relating to certain other excise taxes) is amended by inserting after subchapter A the following new subchapter:

"Subchapter B—Transportation by Water

"Sec. 4471. Imposition of tax.
"Sec. 4472. Definitions and special rules.

"SEC. 4471. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax of $3 per passenger on a covered voyage.

"(b) BY WHOM PAID.—The tax imposed by this section shall be paid by the person providing the covered voyage.

"(c) TIME OF IMPOSITION.—The tax imposed by this section shall be imposed only once for each passenger on a covered voyage, either at the time of first embarkation or disembarkation in the United States.

"SEC. 4472. DEFINITIONS.

"For purposes of this subchapter—

"(1) COVERED VOYAGE.—

"(A) IN GENERAL.—The term 'covered voyage' means a voyage of—

"(i) a commercial passenger vessel which extends over 1 or more nights, or

"(ii) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial waters of the United States,

during which passengers embark or disembark the vessel in the United States. Such term shall not include any voyage on any vessel owned or operated by the United States, a State, or any agency or subdivision thereof.

"(B) EXCEPTION FOR CERTAIN VOYAGES ON PASSENGER VESSELS.—The term 'covered voyage' shall not include a voyage of a passenger vessel of less than 12 hours between 2 ports in the United States.

"(2) PASSENGER VESSEL.—The term 'passenger vessel' means any vessel having berth or stateroom accommodations for more than 16 passengers."

(b) CLERICAL AMENDMENTS.—The table of subchapters for chapter 36 is amended by inserting after the item relating to subchapter A the following new item:

"SUBCHAPTER B. Transportation by water."

26 USC 4471 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to voyages beginning after December 31, 1989, which were not paid for before such date.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter B of chapter 36 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

SEC. 7505. OIL SPILL LIABILITY TRUST FUND TAX TO TAKE EFFECT ON JANUARY 1, 1990.

(a) TAX TO TAKE EFFECT ON JANUARY 1, 1990.—

(1) IN GENERAL.—Subsection (f) of section 4611 (relating to application of Oil Spill Liability Trust Fund financing rate) is amended to read as follows:

"(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995.

"(2) NO TAX IF UNOBLIGATED BALANCE IN FUND EXCEEDS $1,000,000,000.—The Oil Spill Liability Trust Fund financing rate shall not apply during any calendar quarter if the Secretary estimates that as of the close of the preceding calendar quarter the unobligated balance in the Oil Spill Liability Trust Fund exceeds $1,000,000,000."

(b) 5 CENT RATE OF TAX.—Subparagraph (B) of section 4611(c)(2) is amended by striking "1.3 cents" and inserting "5 cents".

(c) CREDIT AGAINST OIL SPILL TAX FOR EXCESS AMOUNTS IN THE TRANS-ALASKA PIPELINE LIABILITY FUND.—Subsection (d) of section 4612 is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall also apply to amounts paid by the taxpayer into the Trans-Alaska Pipeline Liability Fund to the extent of amounts transferred from such Fund into the Oil Spill Liability Trust Fund. Amounts may be transferred from the Trans-Alaska Pipeline Liability Fund into the Oil Spill Liability Trust Fund only to the extent the administrators of the Trans-Alaska Pipeline Liability Fund determine that such amounts are not needed to satisfy claims against such Fund."

26 USC 4611 note.

(d) OIL SPILL LIABILITY TRUST FUND TO BE OPERATING FUND.—

(1) IN GENERAL.—For purposes of sections 8032(d) and 8033(c) of the Omnibus Budget Reconciliation Act of 1986, the commencement date is January 1, 1990.

(2) CONFORMING AMENDMENTS.—

(A) Section 9509 (relating to Oil Spill Liability Trust Fund) is amended by adding at the end thereof the following new subsection:

"(f) REFERENCES TO COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT.—For purposes of this section, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to any law enacted before December 31, 1990, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed by the House of Representatives."

(B) Paragraph (3) of section 9509(b) is amended by striking "(on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies)" and inserting "(on January 1, 1990)".

(C) Paragraph (1) of section 9509(c) is amended by striking the last sentence.

Environmental protection.

SEC. 7506. EXCISE TAX ON SALE OF CHEMICALS WHICH DEPLETE THE OZONE LAYER AND OF PRODUCTS CONTAINING SUCH CHEMICALS.

(a) IN GENERAL.—Chapter 38 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Ozone-Depleting Chemicals, Etc.

"Sec. 4681. Imposition of tax.
"Sec. 4682. Definitions and special rules.

"SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on—

"(1) any ozone-depleting chemical sold or used by the manufacturer, producer, or importer thereof, and

Imports.

"(2) any imported taxable product sold or used by the importer thereof.

"(b) AMOUNT OF TAX.—

"(1) OZONE-DEPLETING CHEMICALS.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on each pound of ozone-depleting chemical shall be an amount equal to—

"(i) the base tax amount, multiplied by

"(ii) the ozone-depletion factor for such chemical.

"(B) BASE TAX AMOUNT FOR YEARS BEFORE 1995.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 is the amount determined under the following table for such calendar year:

"Calendar year:	Base tax amount
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(C) BASE TAX AMOUNT FOR YEARS AFTER 1994.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year after 1994 shall be the base tax amount for 1994 increased by 45 cents for each year after 1994.

"(2) IMPORTED TAXABLE PRODUCT.—

"(A) IN GENERAL.—The amount of the tax imposed by subsection (a) on any imported taxable product shall be the amount of tax which would have been imposed by subsection (a) on the ozone-depleting chemicals used as materials in the manufacture or production of such product if such ozone-depleting chemicals had been sold in the United States on the date of the sale of such imported taxable product.

"(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 4671(b) shall apply.

"SEC. 4682. DEFINITIONS AND SPECIAL RULES.

"(a) OZONE-DEPLETING CHEMICAL.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'ozone-depleting chemical' means any substance—

"(A) which, at the time of the sale or use by the manufacturer, producer, or importer, is listed as an ozone-depleting chemical in the table contained in paragraph (2), and

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) OZONE-DEPLETING CHEMICALS.—

"Common name:	Chemical nomenclature:
CFC-11	trichlorofluoromethane
CFC-12	dichlorodifluoromethane
CFC-113	trichlorotrifluoroethane
CFC-114	1,2-dichloro-1,1,2,2-tetra-fluoroethane
CFC-115	chloropentafluoroethane
Halon-1211	bromochlorodifluoromethane
Halon-1301	bromotrifluoromethane
Halon-2402	dibromotetrafluoroethane.

"(b) OZONE-DEPLETION FACTOR.—For purposes of this subchapter, the term 'ozone-depletion factor' means, with respect to an ozone-depleting chemical, the factor assigned to such chemical under the following table:

"Ozone-depleting chemical:	Ozone-depletion factor:
CFC-11	1.0
CFC-12	1.0
CFC-113	0.8
CFC-114	1.0
CFC-115	0.6
Halon-1211	3.0
Halon-1301	10.0
Halon-2402	6.0.

"(c) IMPORTED TAXABLE PRODUCT.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'imported taxable product' means any product (other than an ozone-depleting chemical) entered into the United States for consumption, use, or warehousing if any ozone-depleting chemical was used as material in the manufacture or production of such product.

"(2) DE MINIMIS EXCEPTION.—The term 'imported taxable product' shall not include any product specified in regulations prescribed by the Secretary as using a de minimis amount of ozone-depleting chemicals as materials in the manufacture or production thereof. The preceding sentence shall not apply to any product in which any ozone-depleting chemical is used for purposes of refrigeration or air conditioning, creating an aerosol or foam, or manufacturing electronic components.

"(d) EXCEPTIONS.—

"(1) RECYCLING.—No tax shall be imposed by section 4681 on any ozone-depleting chemical which is diverted or recovered in the United States as part of a recycling process (and not as part of the original manufacturing or production process).

"(2) USE IN FURTHER MANUFACTURE.—

"(A) IN GENERAL.—No tax shall be imposed by section 4681—

"(i) on the use of any ozone-depleting chemical in the manufacture or production of any other chemical if the ozone-depleting chemical is entirely consumed in such use,

"(ii) on the sale by the manufacturer, producer, or importer of any ozone-depleting chemical—

"(I) for a use by the purchaser which meets the requirements of clause (i), or

"(II) for resale by the purchaser to a second purchaser for a use by the second purchaser which meets the requirements of clause (i).

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any), meet such registration requirements as may be prescribed by the Secretary.

"(B) CREDIT OR REFUND.—Under regulations prescribed by the Secretary, if—

"(i) a tax under this subchapter was paid with respect to any ozone-depleting chemical, and

"(ii) such chemical was used (and entirely consumed) by any person in the manufacture or production of any other chemical,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by section 4681.

"(3) EXPORTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 4662(e) (other than section 4662(e)(2)(A)(ii)(II)) shall apply for purposes of this subchapter.

"(B) LIMIT ON BENEFIT.—

"(i) IN GENERAL.—The aggregate tax benefit allowable under subparagraph (A) with respect to ozone-depleting chemicals manufactured or produced by any person during a calendar year shall not exceed the sum of—

"(I) the amount equal to the 1986 export percentage of the aggregate tax imposed by this subchapter with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year (other than chemicals with respect to which subclause (II) applies), and

"(II) the aggregate tax imposed by this subchapter with respect to any additional production allowance granted to such person with respect to ozone-depleting chemicals manufactured or produced by such person during such calendar year by the Environmental Protection Agency under 40 CFR Part 82 (as in effect on September 14, 1989).

"(ii) 1986 EXPORT PERCENTAGE.—A person's 1986 export percentage is the percentage equal to the ozone-depletion factor adjusted pounds of ozone-depleting chemicals manufactured or produced by such person during 1986 which were exported during 1986, divided by the ozone-depletion factor adjusted pounds of all ozone-depleting chemicals manufactured or produced by such person during 1986. The percentage determined under the preceding sentence shall be based on data published by the Environmental Protection Agency.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) IMPORTER.—The term 'importer' means the person entering the article for consumption, use, or warehousing.

"(2) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4).

"(f) SPECIAL RULES.—

"(1) FRACTIONAL PARTS OF A POUND.—In the case of a fraction of a pound, the tax imposed by this subchapter shall be the same fraction of the amount of such tax imposed on a whole pound.

"(2) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by this subchapter.

"(g) PHASE-IN OF TAX ON CERTAIN SUBSTANCES.—

"(1) TREATMENT FOR 1990.—

"(A) HALONS.—The term 'ozone-depleting chemical' shall not include halon-1211, halon-1301, or halon-2402 with respect to any sale or use during 1990.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—No tax shall be imposed by section 4681—

"(i) on the use during 1990 of any substance in the manufacture of rigid foam insulation,

"(ii) on the sale during 1990 by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser in the manufacture of rigid foam insulation, or

"(II) for resale by the purchaser to a second purchaser for such use by the second purchaser, or

"(iii) on the sale or use during 1990 by the importer of any rigid foam insulation.

Clause (ii) shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(2) TREATMENT FOR 1991, 1992, AND 1993.—

"(A) HALONS.—The tax imposed by section 4681 during 1991, 1992, or 1993 by reason of the treatment of halon-1211, halon-1301, and halon-2402 as ozone-depleting chemicals shall be the applicable percentage (determined under the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of:	The applicable percentage is: For sales or use during 1991	For sales or use during 1992	For sales or use during 1993
Halon-1211	6.0	5.0	3.3
Halon-1301	1.8	1.5	1.0
Halon-2402	3.0	2.5	1.6.

"(B) CHEMICALS USED IN RIGID FOAM INSULATION.—In the case of a sale or use during 1991, 1992, or 1993 on which no tax would have been imposed by reason of paragraph (1)(B) had such sale or use occurred during 1990, the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph) be imposed.

"In the case of sales or use during:	The applicable percentage is:
1991	18
1992	15
1993	10.

"(3) OVERPAYMENTS WITH RESPECT TO CHEMICALS USED IN RIGID FOAM INSULATION.—If any substance on which tax was paid under this subchapter is used during 1990, 1991, 1992, or 1993 by any person in the manufacture of rigid foam insulation, credit or refund (without interest) shall be allowed to such person an amount equal to the excess of—

"(A) the tax paid under this subchapter on such substance, over

"(B) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacturer, producer, or importer thereof on the date of its use by such person.

"Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim therefor has been timely filed under this paragraph.

"(h) IMPOSITION OF FLOOR STOCKS TAXES.—

"(1) JANUARY 1, 1990, TAX.—On any ozone-depleting chemical which on January 1, 1990, is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax in an amount equal to the tax which would be imposed by section 4681 on such chemical if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred during 1990.

"(2) OTHER TAX-INCREASE DATES.—

"(A) IN GENERAL.—If, on any tax-increase date, any ozone-depleting chemical is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) shall be the excess (if any) of—

"(i) the tax which would be imposed under section 4681 on such substance if the sale of such chemical by the manufacturer, producer, or importer thereof had occurred on the tax-increase date, over

"(ii) the prior tax (if any) imposed by this subchapter on such substance.

"(C) TAX-INCREASE DATE.—For purposes of this paragraph, the term 'tax-increase date' means January 1 of 1991, 1992, 1993, and 1994.

"(3) DUE DATE.—The taxes imposed by this subsection on January 1 of any calendar year shall be paid on or before April 1 of such year.

"(4) APPLICATION OF OTHER LAWS.—All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4681 shall apply to the floor stocks taxes imposed by this subsection."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 38 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Ozone-depleting chemicals, etc."

(c) EFFECTIVE DATE.— 26 USC 4681 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1990.

(2) NO DEPOSITS REQUIRED BEFORE APRIL 1, 1990.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986, as added by this section, shall be required to be made before April 1, 1990.

(3) NOTIFICATION OF CHANGES IN INTERNATIONAL AGREEMENTS.—The Secretary of the Treasury or his delegate shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of changes in the Montreal Protocol and of other international agreements to which the United States is a signatory relating to ozone-depleting chemicals.

SEC. 7507. ACCELERATION OF DEPOSIT REQUIREMENTS FOR GASOLINE EXCISE TAX.

(a) IN GENERAL.—Section 6302 (relating to mode or time of collection), as amended by section 7502, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TIME FOR DEPOSIT OF TAXES ON GASOLINE.—

"(1) GENERAL RULE.—Notwithstanding section 518 of the Highway Revenue Act of 1982, any person whose liability for tax under section 4081 is payable with respect to semimonthly periods shall, not later than September 27, make deposits of such tax for the period beginning on September 16 and ending on September 22.

"(2) SPECIAL RULE WHERE DUE DATE FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If, but for this paragraph, the due date under paragraph (1) would fall on a Saturday, Sunday, or holiday in the District of Columbia, such due date shall be deemed to be the immediately preceding day which is not a Saturday, Sunday, or such a holiday." District of Columbia.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments of taxes for tax periods beginning after December 31, 1989. 26 USC 6302 note.

SEC. 7508. TAXATION OF BULK CIGAR IMPORTS.

(a) In General.—Subsection (c) of section 5704 (relating to tobacco products and cigarette papers and tubes released in bond from customs custody) is amended by inserting "or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages," after "export warehouse,".

26 USC 5704 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to articles imported or brought into the United States after the date of the enactment of this Act.

Subtitle F—Miscellaneous Provisions

Real property.

PART I—LIMITATION ON NONRECOGNITION FOR CERTAIN EXCHANGES

SEC. 7601. LIKE KIND EXCHANGES BETWEEN RELATED PERSONS.

(a) Special Rules for Exchanges Between Related Persons, Etc.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end thereof the following new subsections:

"(f) Special Rules for Exchanges Between Related Persons.—

"(1) In general.—If—

"(A) a taxpayer exchanges property with a related person,

"(B) there is nonrecognition of gain or loss to the taxpayer under this section with respect to the exchange of such property (determined without regard to this subsection), and

"(C) before the date 2 years after the date of the last transfer which was part of such exchange—

"(i) the related person disposes of such property, or

"(ii) the taxpayer disposes of the property received in the exchange from the related person which was of like kind to the property transferred by the taxpayer,

there shall be no nonrecognition of gain or loss under this section to the taxpayer with respect to such exchange; except that any gain or loss recognized by the taxpayer by reason of this subsection shall be taken into account as of the date on which the disposition referred to in subparagraph (C) occurs.

"(2) Certain dispositions not taken into account.—For purposes of paragraph (1)(C), there shall not be taken into account any disposition—

"(A) after the earlier of the death of the taxpayer or the death of the related person,

"(B) in a compulsory or involuntary conversion (within the meaning of section 1033) if the exchange occurred before the threat or imminence of such conversion, or

"(C) with respect to which it is established to the satisfaction of the Secretary that neither the exchange nor such disposition had as one of its principal purposes the avoidance of Federal income tax.

"(3) Related person.—For purposes of this subsection, the term 'related person' means any person bearing a relationship to the taxpayer described in section 267(b).

"(4) TREATMENT OF CERTAIN TRANSACTIONS.—This section shall not apply to any exchange which is part of a transaction (or series of transactions) structured to avoid the purposes of this subsection.

"(g) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(1) IN GENERAL.—If paragraph (2) applies to any property for any period, the running of the period set forth in subsection (f)(1)(C) with respect to such property shall be suspended during such period.

"(2) PROPERTY TO WHICH SUBSECTION APPLIES.—This paragraph shall apply to any property for any period during which the holder's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property,

"(B) the holding by another person of a right to acquire such property, or

"(C) a short sale or any other transaction.

"(h) SPECIAL RULE FOR FOREIGN REAL PROPERTY.—For purposes of this section, real property located in the United States and real property located outside the United States are not property of a like kind."

(b) EFFECTIVE DATE.— 26 USC 1031 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers after July 10, 1989, in taxable years ending after such date.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on July 10, 1989, and at all times thereafter before the transfer.

PART II—MINIMUM TAX PROVISIONS

SEC. 7611. SIMPLIFICATION OF ADJUSTED CURRENT EARNINGS PREFERENCE.

(a) ELIMINATION OF BOOK LIMITATIONS APPLICABLE TO DEPRECIATION.—

(1) IN GENERAL.—

(A) Clause (i) of section 56(g)(4)(A) (relating to depreciation) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989.—The depreciation deduction with respect to any property placed in service in a taxable year beginning after 1989 shall be determined under the alternative system of section 168(g)."

(B) Subparagraph (A) of section 56(g)(4) is amended by striking clauses (v) and (vi) and by redesignating clause (vii) as clause (v).

(2) TECHNICAL AMENDMENT.—Clause (iii) of section 56(g)(4)(A) is amended by inserting "and which is placed in service in a taxable year beginning before 1990" after "thereof) applies".

(b) TREATMENT OF CERTAIN EARNINGS AND PROFITS ADJUSTMENTS.—Subparagraph (D) of section 56(g)(4) is amended to read as follows:

"(D) CERTAIN OTHER EARNINGS AND PROFITS ADJUSTMENTS.—

"(i) INTANGIBLE DRILLING COSTS.—The adjustments provided in section 312(n)(2)(A) shall apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1989.

"(ii) CERTAIN AMORTIZATION PROVISIONS NOT TO APPLY.—Sections 173 and 248 shall not apply to expenditures paid or incurred in taxable year beginning after December 31, 1989.

"(iii) LIFO INVENTORY ADJUSTMENTS.—The adjustments provided in section 312(n)(4) shall apply.

"(iv) INSTALLMENT SALES.—In the case of any installment sale in a taxable year beginning after December 31, 1989, adjusted current earnings shall be computed as if the corporation did not use the installment method. The preceding sentence shall not apply to the applicable percentage (as determined under section 453A) of the gain from any installment sale with respect to which section 453A(a)(1) applies."

(c) ELIMINATION OF BOOK LIMITATION ON DEPLETION.—Subparagraph (G) of section 56(g)(4) is amended to read as follows:

"(G) DEPLETION.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after 1989 shall be cost depletion determined under section 611."

(d) TREATMENT OF CERTAIN DIVIDENDS.—Clause (ii) of section 56(g)(4)(C) is amended to read as follows:

"(ii) SPECIAL RULE FOR CERTAIN DIVIDENDS.—

"(I) IN GENERAL.—Clause (i) shall not apply to any deduction allowable under section 243 or 245 for any dividend which is a 100-percent dividend or which is received from a 20-percent owned corporation (as defined in section 243(c)(2)), but only to the extent such dividend is attributable to income of the paying corporation which is subject to tax under this chapter (determined after the application of sections 936 and 921).

"(II) 100-PERCENT DIVIDEND.—For purposes of the subclause (I), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the amount allowable as a deduction under section 243 or 245 with respect to such dividend is 100 percent."

(e) SPECIAL RULE FOR CERTAIN DIVIDENDS RECEIVED BY COOPERATIVES.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end thereof the following new clause:

"(iv) SPECIAL RULE FOR CERTAIN DIVIDENDS RECEIVED BY CERTAIN COOPERATIVES.—In the case of a cooperative described in section 927(a)(4), clause (i) shall not apply to any amount allowable as a deduction under section 245(c)."

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Clause (i) of section 56(g)(4)(H) is amended by striking "after the date of the enactment of the Tax Reform Act of 1986" and inserting "in a taxable year beginning after 1989".

(2) Clause (i) of section 56(g)(4)(B) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of any amount excluded from gross income under section 108 (or the corresponding provisions of prior law)."

(3) Clause (iii) of section 56(g)(4)(B) is hereby repealed.

(4) Paragraph (5) of section 56(g) is amended by striking subparagraphs (A) and (C) and by redesignating subparagraphs (B) and (D) as subparagraphs (A) and (B), respectively.

(5)(A) Clause (ii) of section 312(n)(2)(A) is amended by striking "in which the production from the well begins" and inserting "in which such amount was paid or incurred".

(B) Paragraph (1) of section 59(e) is amended by inserting before the period at the end thereof: "(or, in the case of a qualified expenditure described in paragraph (2)(C), over the 60-month period beginning with the month in which such expenditure was paid or incurred)".

(6) Subsection (i) of section 59 is amended—

(A) by striking "interest shall" and inserting "any amount shall", and

(B) by striking "INTEREST" in the subsection heading and inserting "AMOUNTS".

(g) EFFECTIVE DATES.— 26 USC 56 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) INTANGIBLE DRILLING COSTS.—The amendments made by subsection (f)(5) shall apply to costs paid or incurred in taxable years beginning after December 31, 1989.

(3) REGULATIONS ON EARNINGS AND PROFITS RULES.—Not later than March 15, 1991, the Secretary of the Treasury or his delegate shall prescribe initial regulations providing guidance as to which items of income are included in adjusted current earnings under section 56(g)(4)(B)(i) of the Internal Revenue Code of 1986 and which items of deduction are disallowed under section 56(g)(4)(C) of such Code.

SEC. 7612. OTHER MODIFICATIONS TO MINIMUM TAX.

(a) MODIFICATION TO CORPORATE MINIMUM TAX CREDIT.—

(1) IN GENERAL.—Subparagraph (B) of section 53(d)(1) (relating to credit not allowed for exclusion preferences) is amended by adding at the end thereof the following new clause:

"(iv) CREDIT ALLOWABLE FOR EXCLUSION PREFERENCES OF CORPORATIONS.—In the case of a corporation—

"(I) the preceding provisions of this subparagraph shall not apply, and

"(II) the adjusted net minimum tax for any taxable year is the amount of the net minimum tax for such year increased by the amount of any credit not allowed under section 29 solely by reason of the application of section 29(b)(5)(B)."

(2) CONFORMING AMENDMENT.—Clause (ii) of section 53(d)(1)(B) is amended—

(A) by striking "subsections (b)(1) and (c)(3)" and inserting "subsection (b)(1)", and

(B) by striking the last sentence.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply for purposes of determining the adjusted net 26 USC 53 note.

minimum tax for taxable years beginning after December 31, 1989.

(b) ADJUSTMENT FOR DISALLOWED PORTION OF ORPHAN DRUG CREDIT.—

(1) IN GENERAL.—Clauses (iii) and (iv) of section 53(d)(1)(B) (as amended by subsection (a)) are each amended by inserting after "section 29(d)(5)(B)" the following: "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)".

26 USC 53 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining the amount of the minimum tax credit for taxable years beginning after December 31, 1989; except that, for such purposes, section 53(b)(1) of the Internal Revenue Code of 1986 shall be applied as if such amendment had been in effect for all prior taxable years.

(c) EXEMPTION FOR CERTAIN HOME CONSTRUCTION CONTRACTS.—

(1) IN GENERAL.—Paragraph (3) of section 56(a) (relating to treatment of certain long-term contracts) is amended by striking "with respect to which the requirements of clauses (i) and (ii) of section 460(e)(1)(B) are met".

26 USC 56 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into in taxable years beginning after September 30, 1990.

(d) TREATMENT OF CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) IN GENERAL.—Paragraph (2) of section 56(b) (relating to circulation and research and experimental expenditures) is amended by adding at the end thereof the following new subparagraph:

"(D) EXCEPTION FOR CERTAIN RESEARCH AND EXPERIMENTAL EXPENDITURES.—If the taxpayer materially participates (within the meaning of section 469(h)) in an activity, this paragraph shall not apply to any amount allowable as a deduction under section 174(a) for expenditures paid or incurred in connection with such activity."

26 USC 56 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1990.

(e) 90-PERCENT LIMITATION ON FOREIGN TAX CREDIT NOT TO APPLY TO CERTAIN CORPORATIONS.—

(1) IN GENERAL.—Paragraph (2) of section 59(a) (relating to limitation of foreign tax credit to 90-percent of tax) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION.—Subparagraph (A) shall not apply to any domestic corporation if—

"(i) more than 50 percent of the stock of such domestic corporation (by vote and value) is owned by United States persons who are not members of an affiliated group (as defined in section 1504 of such Code) which includes such corporation,

International agreements.

"(ii) all of the activities of such corporation are conducted in 1 foreign country with which the United States has an income tax treaty in effect and such treaty provides for the exchange of information between such foreign country and the United States,

"(iii) all of the current earnings and profits of such corporation are distributed at least annually (other than current earnings and profits retained for normal maintenance or capital replacements or improvements of an existing business), and

"(iv) all of such distributions by such corporation to United States persons are used by such persons in a trade or business conducted in the United States."

(2) EFFECTIVE DATE.—

26 USC 59 note.

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to taxable years beginning after March 31, 1990.

(B) SPECIAL RULE FOR YEAR WHICH INCLUDES MARCH 31, 1990.—In the case of any taxable year (of a corporation described in subparagraph (C) of section 59(a)(2) of the Internal Revenue Code of 1986 (as added by paragraph (1))) which begins after December 31, 1989, and includes March 31, 1990, the amount determined under clause (ii) of section 59(a)(2)(A) of such Code shall be an amount which bears the same ratio to the amount which would have been determined under such clause without regard to this subparagraph as the number of days in such taxable year on or before March 31, 1990, bears to the total number of days in such taxable year.

(f) STUDY OF DEPRECIATION TREATMENT OF CERTAIN VEHICLES.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study on the proper class life for cars and light trucks.

(2) REPORT.—Not later than the day 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the report conducted under paragraph (1), together with such recommendations as he may deem advisable.

PART III—ACCOUNTING PROVISIONS

SEC. 7621. REPEAL OF COMPLETED CONTRACT METHOD OF ACCOUNTING FOR LONG-TERM CONTRACTS.

(a) IN GENERAL.—Subsection (a) of section 460 (relating to special rules for long-term contracts) is amended to read as follows:

"(a) REQUIREMENT THAT PERCENTAGE OF COMPLETION METHOD BE USED.—In the case of any long-term contract, the taxable income from such contract shall be determined under the percentage of completion method (as modified by subsection (b))."

(b) ELECTION TO USE MODIFIED PERCENTAGE OF COMPLETION METHOD.—Subsection (b) of section 460 (as amended by subsection (c)(1)) is amended by adding at the end thereof the following new paragraph:

"(5) ELECTION TO USE 10-PERCENT METHOD.—

"(A) GENERAL RULE.—In the case of any long-term contract with respect to which an election under this paragraph is in effect, the 10-percent method shall apply in determining the taxable income from such contract.

"(B) 10-PERCENT METHOD.—For purposes of this paragraph—

"(i) IN GENERAL.—The 10-percent method is the percentage of completion method, modified so that any item which would otherwise be taken into account in computing taxable income with respect to a contract for any taxable year before the 10-percent year is taken into account in the 10-percent year.

"(ii) 10-PERCENT YEAR.—The term '10-percent year' means the 1st taxable year as of the close of which at least 10 percent of the estimated total contract costs have been incurred.

"(C) ELECTION.—An election under this paragraph shall apply to all long-term contracts of the taxpayer which are entered into during the taxable year in which the election is made or any subsequent taxable year.

"(D) COORDINATION WITH OTHER PROVISIONS.—

"(i) SIMPLIFIED METHOD OF COST ALLOCATION.—This paragraph shall not apply to any taxpayer which uses a simplified procedure for allocation of costs under paragraph (3)(A).

"(ii) LOOK-BACK METHOD.—The 10-percent method shall be taken into account for purposes of applying the look-back method of paragraph (2) to any taxpayer making an election under this paragraph."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 460 is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(2) Paragraph (1) of section 460(b), as redesignated by paragraph (1), is amended—

(A) by striking "paragraph (4)" and inserting "paragraph (3)", and

(B) by striking "paragraph (3)" and inserting "paragraph (2)".

(3) Paragraph (3) of section 460(b), as redesignated by paragraph (1), is amended by striking "Paragraph (2)(B) and subsection (a)(2)" and inserting "Paragraph (1)(B)".

(4) Subparagraph (A) of section 460(b)(4), as redesignated by paragraph (1), is amended—

(A) by striking "paragraph (3)" each place it appears and inserting "paragraph (2)",

(B) by striking "paragraph (3)(B)" and inserting "paragraph (2)(B)", and

(C) by striking "paragraph (3)(A)" and inserting "paragraph (2)(A)".

(5) Paragraph (5) of section 460(e) is amended by striking so much of such paragraph as precedes subparagraph (A) and inserting the following:

"(5) SPECIAL RULE FOR RESIDENTIAL CONSTRUCTION CONTRACTS WHICH ARE NOT HOME CONSTRUCTION CONTRACTS.—In the case of any residential construction contract which is not a home construction contract, subsection (a) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1989) shall apply except that such subsection shall be applied—".

26 USC 460 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contracts entered into on or after July 11, 1989.

(2) BINDING BIDS.—The amendments made by this section shall not apply to any contract resulting from the acceptance of a bid made before July 11, 1989. The preceding sentence shall

apply only if the bid could not have been revoked or altered at any time on or after July 11, 1989.

(3) SPECIAL RULE FOR CERTAIN SHIP CONTRACTS.—The amendments made by this section shall not apply in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

SEC. 7622. CHANGES IN TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, AND TRADE NAMES.

(a) CONTINGENT PAYMENTS.—Paragraph (1) of section 1253(d) (relating to treatment of payments by transferee) is amended to read as follows:

"(1) CONTINGENT SERIAL PAYMENTS.—

"(A) IN GENERAL.—Any amount described in subparagraph (B) which is paid or incurred during the taxable year on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name shall be allowed as a deduction under section 162(a) (relating to trade or business expenses).

"(B) AMOUNTS TO WHICH PARAGRAPH APPLIES.—An amount is described in this subparagraph if it—

"(i) is contingent on the productivity, use, or disposition of the franchise, trademark, or trade name, and

"(ii) is paid as part of a series of payments—

"(I) which are payable not less frequently than annually throughout the entire term of the transfer agreement, and

"(II) which are substantially equal in amount (or payable under a fixed formula)."

(b) $100,000 LIMITATION ON CERTAIN PAYMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 1253(d) is amended by adding at the end thereof the following new subparagraph:

"(B) $100,000 LIMITATION ON DEDUCTIBILITY OF PRINCIPAL SUM.—Subparagraph (A) shall not apply if the principal sum referred to in such subparagraph exceeds $100,000. For purposes of the preceding sentence, all payments which are part of the same transaction (or a series of related transactions) shall be taken into account as payments with respect to each such transaction."

(2) CONFORMING AMENDMENTS.—Paragraph (2) of section 1253(d) is amended—

(A) by striking all that precedes "If" and inserting:

"(2) CERTAIN PAYMENTS IN DISCHARGE OF PRINCIPAL SUMS.—

"(A) IN GENERAL.—", and

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by redesignating clauses (i) and (ii) of subparagraph (B) as subclauses (I) and (II), respectively.

(c) OTHER PAYMENTS, ETC.—Section 1253(d) is amended by adding at the end thereof the following new paragraphs:

"(3) OTHER PAYMENTS.—

"(A) IN GENERAL.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) or (2) does not apply shall be treated as an amount chargeable to capital account.

"(B) ELECTION TO RECOVER AMOUNTS OVER 25 YEARS.—

"(i) IN GENERAL.—If the taxpayer elects the application of this subparagraph, an amount chargeable to capital account—

"(I) to which paragraph (1) would apply but for subparagraph (B)(ii) thereof, or

"(II) to which paragraph (2) would apply but for subparagraph (B) thereof,

shall be allowed as a deduction ratably over the 25-year period beginning with the taxable year in which the transfer occurs.

"(ii) CONSISTENT TREATMENT.—An election under clause (i) shall apply to all amounts which are part of the same transaction (or a series of related transactions).

"(4) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement or any period of amortization under this subsection, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed).

"(5) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 168(i)(7) shall apply for purposes of this subsection.".

(b) TECHNICAL AMENDMENTS.—

(1) DEPRECIATION ALLOWABLE.—Subsection (r) of section 167 is hereby repealed.

(2) DEDUCTION SUBJECT TO RECAPTURE.—

(A) Subparagraph (C) of section 1245(a)(2) is amended by striking "or 193" and inserting "193, or 1253(d) (2) or (3)".

(B) The material preceding subparagraph (A) of section 1245(a)(3) is amended by striking "section 185" and inserting "section 185 or 1253(d) (2) or (3)".

26 USC 167 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers after October 2, 1989.

(2) BINDING CONTRACT.—The amendments made by this section shall not apply to any transfer pursuant to a written binding contract in effect on October 2, 1989, and at all times thereafter before the transfer.

PART IV—EMPLOYMENT TAX PROVISIONS

SEC. 7631. TREATMENT OF AGRICULTURAL WORKERS UNDER WAGE WITHHOLDING.

(a) IN GENERAL.—Paragraph (2) of section 3401(a) (defining wages) is amended to read as follows:

"(2) for agricultural labor (as defined in section 3121(g)) unless the remuneration paid for such labor is wages (as defined in section 3121(a)); or".

(b) CREW LEADER RULES TO APPLY.—Section 3401 is amended by adding at the end thereof the following new subsection:

"(h) CREW LEADER RULES TO APPLY.—Rules similar to the rules of section 3121(o) shall apply for purposes of this chapter."

26 USC 3401 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1989.

SEC. 7632. ACCELERATION OF DEPOSIT REQUIREMENTS.

(a) IN GENERAL.—Section 6302 (relating to mode or time for collection), as amended by this title, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—

"(1) IN GENERAL.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall, for the years specified in paragraph (2), make deposits of such taxes on the applicable banking day after any day on which such person has $100,000 or more of such taxes for deposit.

"(2) SPECIFIED YEARS.—For purposes of paragraph (1)—

"In the case of:	The applicable banking day is:
1990	1st
1991	2d
1992	3rd
1993	1st
1994	1st."

(b) EFFECTIVE DATE.— 26 USC 6302 note.

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts required to be deposited after July 31, 1990.

(2) RULE FOR 1995 AND THEREAFTER.—For calendar year 1995 and thereafter, the Secretary of the Treasury shall prescribe regulations with respect to the date on which deposits of such taxes shall be made in order to minimize the unevenness in the revenue effects of the amendment made by subsection (a). Regulations.

PART V—OTHER PROVISIONS

SEC. 7641. LIMITATION ON SECTION 104 EXCLUSION.

(a) GENERAL RULE.—Section 104(a) (relating to compensation for injuries or sickness) is amended by adding at the end thereof the following new sentence: "Paragraph (2) shall not apply to any punitive damages in connection with a case not involving physical injury or physical sickness."

(b) EFFECTIVE DATE.— 26 USC 104 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to amounts received after July 10, 1989, in taxable years ending after such date.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any amount received—

(A) under any written binding agreement, court decree, or mediation award in effect on (or issued on or before) July 10, 1989, or

(B) pursuant to any suit filed on or before July 10, 1989.

SEC. 7642. TREATMENT OF DISTRIBUTIONS BY PARTNERSHIPS OF CONTRIBUTED PROPERTY.

(a) GENERAL RULE.—Subsection (c) of section 704 (relating to contributed property) is amended to read as follows:

"(c) CONTRIBUTED PROPERTY.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary—

"(A) income, gain, loss, and deduction with respect to property contributed to the partnership by a partner shall be shared among the partners so as to take account of the variation between the basis of the property to the partnership and its fair market value at the time of contribution, and

"(B) if any property so contributed is distributed by the partnership (other than to the contributing partner) within 5 years of being contributed—

"(i) the contributing partner shall be treated as recognizing gain or loss (as the case may be) from the sale of such property in an amount equal to the gain or loss which would have been allocated to such partner under subparagraph (A) by reason of the variation described in subparagraph (A) if the property had been sold at its fair market value at the time of the distribution,

"(ii) the character of such gain or loss shall be determined by reference to the character of the gain or loss which would have resulted if such property had been sold by the partnership to the distributee, and

"(iii) appropriate adjustments shall be made to the adjusted basis of the contributing partner's interest in the partnership and to the adjusted basis of the property distributed to reflect any gain or loss recognized under this subparagraph.

"(2) SPECIAL RULE FOR DISTRIBUTIONS WHERE GAIN OR LOSS WOULD NOT BE RECOGNIZED OUTSIDE PARTNERSHIPS.—Under regulations prescribed by the Secretary, if—

"(A) property contributed by a partner (hereinafter referred to as the 'contributing partner') is distributed by the partnership to another partner, and

"(B) other property of a like kind (within the meaning of section 1031) is distributed by the partnership to the contributing partner not later than the earlier of—

"(i) the 180th day after the date of the distribution described in subparagraph (A), or

"(ii) the due date (determined with regard to extensions) for the contributing partner's return of the tax imposed by this chapter for the taxable year in which the distribution described in subparagraph (A) occurs,

then to the extent of the value of the property described in subparagraph (B), paragraph (1)(B) shall be applied as if the contributing partner had contributed to the partnership the property described in subparagraph (B).

"(3) OTHER RULES.—Under regulations prescribed by the Secretary, rules similar to the rules of paragraph (1) shall apply to contributions by a partner (using the cash receipts and disbursements method of accounting) of accounts payable and other accrued but unpaid items. Any reference in paragraph (1) or (2) to the contributing partner shall be treated as including a reference to any successor of such partner."

26 USC 704 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply in the case of property contributed to the partnership after October 3, 1989, in taxable years ending after such date.

SEC. 7643. DEPRECIATION TREATMENT OF CELLULAR TELEPHONES.

(a) General Rule.—Subparagraph (A) of section 280F(d)(4) (defining listed property) is amended by striking "and" at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

"(v) any cellular telephone (or other similar telecommunications equipment), and".

26 USC 280F note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to property placed in service or leased in taxable years beginning after December 31, 1989.

SEC. 7644. ELIMINATION OF RETROACTIVE CERTIFICATION OF EMPLOYEES FOR WORK INCENTIVE JOBS CREDIT.

(a) In General.—So much of subparagraph (A) of section 50B(h)(1) of the Internal Revenue Code of 1954 (as in effect for taxable years beginning before January 1, 1982) as precedes clause (i) thereof is amended to read as follows:

"(A) who has been certified (or for whom a written request for certification has been made) on or before the day the individual began work for the taxpayer by the Secretary of Labor or by the appropriate agency of State or local government as—".

26 USC 50B note.

(b) Effective Date.—The amendment made by subsection (a) shall apply for purposes of credits first claimed after March 11, 1987.

SEC. 7645. DISALLOWANCE OF DEPRECIATION FOR CERTAIN TERM INTERESTS.

Real property.

(a) General Rule.—Section 167 (as amended by section 7622) is amended by inserting after subsection (q) the following new subsection:

"(r) Certain Term Interests Not Depreciable.—

"(1) In general.—No depreciation deduction shall be allowed under this section (and no depreciation or amortization deduction shall be allowed under any other provision of this subtitle) to the taxpayer for any term interest in property for any period during which the remainder interest in such property is held (directly or indirectly) by a related person.

"(2) Coordination with section 273.—This subsection shall not apply to any term interest to which section 273 applies.

"(3) Basis adjustments.—If, but for this subsection, a depreciation or amortization deduction would be allowable to the taxpayer with respect to any term interest in property—

"(A) the taxpayer's basis in such property shall be reduced by any depreciation or amortization deductions disallowed under this subsection, and

"(B) the basis of the remainder interest in such property shall be increased by the amount of such disallowed deductions (properly adjusted for any depreciation deductions allowable under subsection (h) to the taxpayer).

"(4) Special rules.—

"(A) Denial of increase in basis of remainderman.—No increase in the basis of the remainder interest shall be made under paragraph (3)(B) for any disallowed deductions attributable to periods during which the term interest was held—

"(i) by an organization exempt from tax under this subtitle, or

Aliens. Business and industry.

"(ii) by a nonresident alien individual or foreign corporation but only if income from the term interest is not effectively connected with the conduct of a trade or business in the United States.

"(B) COORDINATION WITH SUBSECTION (h).—If, but for this subsection, a depreciation or amortization deduction would be allowable to any person with respect to any term interest in property, the principles of subsection (h) shall apply to such person with respect to such term interest.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TERM INTEREST IN PROPERTY.—The term 'term interest in property' has the meaning given such term by section 1001(e)(2).

"(B) RELATED PERSON.—The term 'related person' means any person bearing a relationship to the taxpayer described in subsection (b) or (e) of section 267.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations preventing avoidance of this subsection through cross-ownership arrangements or otherwise."

26 USC 167 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interests created or acquired after July 27, 1989, in taxable years ending after such date.

SEC. 7646. REPORTING OF POINTS ON MORTGAGE LOANS.

(a) GENERAL RULE.—Paragraph (2) of section 6050H(b) (relating to form and manner of returns) is amended by striking "and" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) the amount of points on the mortgage received during the calendar year and whether such points were paid directly by the borrower, and".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 6050H(b)(1) is amended by inserting "(other than points)" after "such interest".

(2) Paragraph (2) of section 6050H(d) is amended—

(A) by inserting "(other than points)" after "subsection (a)(2)", and

(B) by inserting before the period at the end thereof the following: "(and the information required under subsection (b)(2)(C))".

26 USC 6050H note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1991.

SEC. 7647. TREATMENT OF CERTAIN INVESTMENT-ORIENTED LIFE INSURANCE CONTRACTS.

(a) GENERAL RULE.—Subsection (c) of section 7702A (relating to computational rules) is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF CERTAIN CONTRACTS WITH MORE THAN ONE INSURED.—If—

"(A) a contract provides a death benefit which is payable only upon the death of 1 insured following (or occurring simultaneously with) the death of another insured, and

"(B) there is a reduction in such death benefit below the lowest level of such death benefit provided under the contract during the 1st 7 contract years,

this section shall be applied as if the contract had originally been issued at the reduced benefit level."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into on or after September 14, 1989. 26 USC 7702A note.

PART VI—TAX-EXEMPT BOND PROVISIONS

SEC. 7651. TREATMENT OF HEDGE BONDS.

(a) IN GENERAL.—Section 149 (relating to bonds must be registered to be tax-exempt; other requirements) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF HEDGE BONDS.—

"(1) IN GENERAL.—Section 103(a) shall not apply to any hedge bond unless, with respect to the issue of which such bond is a part—

"(A) the requirement of paragraph (2) is met, and

"(B) the requirement of subsection (f)(3) is met.

"(2) REASONABLE EXPECTATIONS AS TO WHEN PROCEEDS WILL BE SPENT.—An issue meets the requirement of this paragraph if the issuer reasonably expects that—

"(A) 10 percent of the spendable proceeds of the issue will be spent for the governmental purposes of the issue within the 1-year period beginning on the date the bonds are issued,

"(B) 30 percent of the spendable proceeds of the issue will be spent for such purposes within the 2-year period beginning on such date,

"(C) 60 percent of the spendable proceeds of the issue will be spent for such purposes within the 3-year period beginning on such date, and

"(D) 85 percent of the spendable proceeds of the issue will be spent for such purposes within the 5-year period beginning on such date.

"(3) HEDGE BOND.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'hedge bond' means any bond issued as part of an issue unless—

"(i) the issuer reasonably expects that 85 percent of the spendable proceeds of the issue will be used to carry out the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued, and

"(ii) not more than 50 percent of the proceeds of the issue are invested in nonpurpose investments (as defined in section 148(f)(6)(A)) having a substantially guaranteed yield for 4 years or more.

"(B) EXCEPTION FOR INVESTMENT IN TAX-EXEMPT BONDS NOT SUBJECT TO MINIMUM TAX.—

"(i) IN GENERAL.—Such term shall not include any bond issued as part of an issue 95 percent of the net proceeds of which are invested in bonds—

"(I) the interest on which is not includible in gross income under section 103, and

"(II) which are not specified private activity bonds (as defined in section 57(a)(5)(C)).

"(ii) AMOUNTS IN BONA FIDE DEBT SERVICE FUND.—Amounts in a bona fide debt service fund shall be treated as invested in bonds described in clause (i).

"(iii) INVESTMENT EARNINGS HELD PENDING REINVESTMENT.—Investment earnings held for not more than 30 days pending reinvestment shall be treated as invested in bonds described in clause (i).

"(C) EXCEPTION FOR REFUNDING BONDS.—

"(i) IN GENERAL.—A refunding bond shall be treated as meeting the requirements of this subsection only if the original bond met such requirements.

"(ii) GENERAL RULE FOR REFUNDING OF PRE-EFFECTIVE DATE BONDS.—A refunding bond shall be treated as meeting the requirements of this subsection if—

"(I) this subsection does not apply to the original bond,

"(II) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

"(III) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

"(iii) REFUNDING OF PRE-EFFECTIVE DATE BONDS ENTITLED TO 5-YEAR TEMPORARY PERIOD.—A refunding bond shall be treated as meeting the requirements of this subsection if—

"(I) this subsection does not apply to the original bond,

"(II) the issuer reasonably expected that 85 percent of the spendable proceeds of the issue of which the original bond is a part would be used to carry out the governmental purposes of the issue within the 5-year period beginning on the date the original bonds were issued but did not reasonably expect that 85 percent of such proceeds would be so spent within the 3-year period beginning on such date, and

"(III) at least 85 percent of the spendable proceeds of the original issue (and all other prior original issues issued to finance the governmental purposes of such issue) were spent before the date the refunding bonds are issued.

"(4) SPECIAL RULES.—For purposes of this subsection—

"(A) CONSTRUCTION PERIOD IN EXCESS OF 5 YEARS.—The Secretary may, at the request of any issuer, provide that the requirement of paragraph (2) shall be treated as met with respect to the portion of the spendable proceeds of an issue which is to be used for any construction project having a construction period in excess of 5 years if it is reasonably expected that such proceeds will be spent over a reasonable construction schedule specified in such request.

"(B) Rules for determining expectations.—The rules of subsection (f)(2)(B) shall apply.

"(5) Regulations.—The Secretary may prescribe regulations to prevent the avoidance of the rules of this subsection, including through the aggregation of projects within a single issue."

(b) Effective Date.— 26 USC 149 note.

(1) In general.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to bonds issued after September 14, 1989.

(2) Bonds sold before September 15, 1989.—The amendment made by subsection (a) shall not apply to any bond sold before September 15, 1989, and issued before October 15, 1989.

(3) Bonds with respect to which preliminary offering materials mailed.—The amendment made by subsection (a) shall not apply to any issue issued after the date of the enactment of this Act if the preliminary offering materials with respect to such issue were mailed (or otherwise delivered) to members of the underwriting syndicate before September 15, 1989.

(4) Certain other bonds.—In the case of a bond issued before January 1, 1991, with respect to which official action was taken (or a series of official actions were taken), or other comparable preliminary approval was given, before November 18, 1989, demonstrating an intent to issue such bonds in a maximum specified amount for such issue or with a maximum specified amount of net proceeds of such issue, the issuer may elect to apply section 149(g)(2) of the Internal Revenue Code of 1986 (as added by this section) by substituting "15 percent" for "10 percent" in subparagraph (A) and "50 percent" for "60 percent" in subparagraph (C).

(5) Bonds issued to finance self-insurance funds.—The amendment made by subsection (a) shall not apply to any bonds issued before July 1, 1990, to finance a self-insurance fund if official action was taken (or a series of official actions were taken), or other comparable preliminary approval was given, before September 15, 1989, demonstrating an intent to issue such bonds in a maximum specified amount for such issue or with a maximum specified amount of net proceeds of such issue.

SEC. 7652. EXCEPTIONS FROM ARBITRAGE REBATE REQUIREMENT.

(a) In general.—Clause (i) of section 148(f)(4)(B) (relating to temporary investments) is amended to read as follows:

"(i) In general.—An issue shall, for purposes of this subsection, be treated as meeting the requirements of paragraph (2) if—

"(I) the gross proceeds of such issue are expended for the governmental purposes for which the issue was issued no later than the day which is 6 months after the date of issuance of the issue, and

"(II) the requirements of paragraph (2) are met after such 6 months with respect to earnings on amounts in any reasonably required reserve or replacement fund.

Gross proceeds which are held in a bona fide debt service fund or a reasonably required reserve or replacement fund shall not be considered gross proceeds for purposes of this subparagraph only."

(b) CONSTRUCTION BONDS.—Subparagraph (B) of section 148(f)(4) (relating to temporary investments) is amended by adding at the end thereof the following new clause:

"(iv) 2-YEAR PERIOD FOR CERTAIN CONSTRUCTION BONDS.—

"(I) IN GENERAL.—In the case of an issue described in subclause (IV), clause (i) shall be applied by substituting '2 years' for '6 months' each place it appears.

"(II) PROCEEDS MUST BE SPENT WITHIN CERTAIN PERIODS.—Subclause (I) shall not apply to any issue if less than 10 percent of the net proceeds of the issue are spent for the governmental purposes of the issue within the 6-month period beginning on the date the bonds are issued, less than 45 percent of such proceeds are spent for such purposes within the 1-year period beginning on such date, less than 75 percent of such proceeds are spent for such purposes within the 18-month period beginning on such date, or less than 100 percent of such proceeds are spent for such purposes within the 2-year period beginning on such date. For purposes of the preceding sentence, the term 'net proceeds' includes investment proceeds earned before the close of the period involved on the investment of the sale proceeds of the issue.

"(III) EXCEPTION FOR REASONABLE RETAINAGE.—For purposes of subclause (II), 100 percent of the net proceeds of an issue shall be treated as spent for the governmental purposes of the issue within the 2-year period beginning on the date the bonds are issued if such requirement is met within the 3-year period beginning on such date and such requirement would have been met within such 2-year period but for a reasonable retainage (not exceeding 5 percent of the net proceeds of the issue).

"(IV) ISSUES TO WHICH SUBCLAUSE (I) APPLIES.—An issue is described in this subclause if at least 75 percent of the net proceeds of the issue are to be used for construction expenditures with respect to property which is owned by a governmental unit or a 501(c)(3) organization. For purposes of the preceding sentence, the term 'construction' includes reconstruction and rehabilitation, and section 142(b)(1) shall apply. An issue is not described in this subclause if any bond which is part of such issue is a bond other than a qualified 501(c)(3) bond, a bond which is not a private activity bond, or a private activity bond to finance property to be owned by a governmental unit or a 501(c)(3) organization.

"(V) ELECTION TO PAY PENALTY IN LIEU OF REBATE.—In the case of an issue described in subclause (IV) which fails to meet the requirements of subclause (II), if the issuer elected the application of this subclause, the requirements of paragraph (2) shall be treated as met if the issuer pays the penalty under paragraph (7) or pays a penalty with respect to the close of each 6 month period after the date the bonds are issued equal to 1½ percent of the amount of the net proceeds of the issue which, as of the close of such period, are not spent as required by subclause (II). The penalty under this subclause shall cease to apply only after the bonds (including any refunding bonds with respect thereto) are no longer outstanding.

"(VI) ELECTION TO REBATE ON EARNINGS ON RESERVE.—If the issuer so elects, the term 'net proceeds' for purposes of subclause (II) shall not include earnings on any reasonably required reserve or replacement fund and the requirements of paragraph (2) shall apply to such earnings.

"(VII) POOLED FINANCING BONDS.—At the election of the issuer of an issue the proceeds of which are to be used to make or finance loans (other than nonpurpose investments) to 2 or more persons, the periods described in clause (i) and this clause shall begin on the date the loan is made in the case of loans made within the 1-year period after the date the bonds were issued. In the case of loans made after such 1-year period, the periods described in clause (i) and this clause shall begin at the close of such 1-year period.

"(VIII) PORTIONS OF ISSUE MAY BE TREATED SEPARATELY.—If only a portion of an issue is to be used for construction expenditures referred to in subclause (IV), such portion and the other portion of such issue may, at the election of the issuer, be treated as separate issues for purposes of this clause and clause (i).

"(IX) ELECTIONS.—Any election under this clause shall be made on or before the date the bonds are issued; and, once made, shall be irrevocable."

(c) POOLED FINANCING BONDS.—Subparagraph (A) of section 148(c)(2) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) BONDS USED TO PROVIDE CONSTRUCTION FINANCING.—In the case of an issue described in subparagraph (A) any portion of which is used to make or finance loans for construction expenditures (within the meaning of subsection (f)(4)(B)(iv)(IV))—

"(i) rules similar to the rules of subsection (f)(4)(B)(iv)(VIII) shall apply, and

"(ii) subparagraph (A) shall be applied with respect to such portion by substituting '2 years' for '6 months'."

(d) CONFORMING AMENDMENT.—Subclause (I) of section 148(f)(4)(B)(ii) is amended by inserting "each place it appears" after "'6 months'".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act. 26 USC 148 note.

Subtitle G—Revision of Civil Penalties

Improved Penalty Administration and Compliance Tax Act.
26 USC 1 note.

SEC. 7701. SHORT TITLE.

This subtitle may be cited as the "Improved Penalty Administration and Compliance Tax Act".

PART I—DOCUMENT AND INFORMATION RETURN PENALTIES

SEC. 7711. UNIFORM PENALTIES FOR FAILURES TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS.

(a) General Rule.—Part II of subchapter B of chapter 68 (relating to failure to file certain information returns or statements) is amended to read as follows:

"PART II—FAILURE TO COMPLY WITH CERTAIN INFORMATION REPORTING REQUIREMENTS

"Sec. 6721. Failure to file correct information returns.
"Sec. 6722. Failure to furnish correct payee statements.
"Sec. 6723. Failure to comply with other information reporting requirements.
"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CORRECT INFORMATION RETURNS.

"(a) Imposition of Penalty.—

"(1) In general.—In the case of a failure described in paragraph (2) by any person with respect to an information return, such person shall pay a penalty of $50 for each return with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $250,000.

"(2) Failures subject to penalty.—For purposes of paragraph (1), the failures described in this paragraph are—

"(A) any failure to file an information return with the Secretary on or before the required filing date, and

"(B) any failure to include all of the information required to be shown on the return or the inclusion of incorrect information.

"(b) Reduction Where Correction in Specified Period.—

"(1) Correction within 30 days.—If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

"(A) the penalty imposed by subsection (a) shall be $15 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed $75,000.

"(2) Failures corrected on or before August 1.—If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

"(A) the penalty imposed by subsection (a) shall be $30 in lieu of $50, and

"(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed $150,000.

"(c) EXCEPTION FOR DE MINIMIS FAILURES TO INCLUDE ALL REQUIRED INFORMATION.—

"(1) IN GENERAL.—If—

"(A) an information return is filed with the Secretary,

"(B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such return, and

"(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs,

for purposes of this section, such return shall be treated as having been filed with all of the correct required information.

"(2) LIMITATION.—The number of information returns to which paragraph (1) applies for any calendar year shall not exceed the greater of—

"(A) 10, or

"(B) one-half of 1 percent of the total number of information returns required to be filed by the person during the calendar year.

"(d) LOWER LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—

"(1) IN GENERAL.—If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such taxable year—

"(A) subsection (a)(1) shall be applied by substituting '$100,000' for '$250,000',

"(B) subsection (b)(1)(B) shall be applied by substituting '$25,000' for '$75,000', and

"(C) subsection (b)(2)(B) shall be applied by substituting '$50,000' for '$150,000'.

"(2) GROSS RECEIPTS TEST.—

"(A) IN GENERAL.—A person meets the gross receipts test of this paragraph for any calendar year if the average annual gross receipts of such person for the most recent 3 taxable years ending before such calendar year do not exceed $5,000,000.

"(B) CERTAIN RULES MADE APPLICABLE.—For purposes of subparagraph (A), the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures described in subsection (a)(2) are due to intentional disregard of the filing requirement (or the correct information reporting requirement), then, with respect to each such failure—

"(1) subsections (b), (c), and (d) shall not apply,

"(2) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, and

"(3) in the case of any penalty determined under paragraph (2)—

"(A) the $250,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying such limitation (or any similar limitation under subsection (b)) to penalties not determined under paragraph (2).

"SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.

"(a) General Rule.—In the case of each failure described in subsection (b) by any person with respect to a payee statement, such person shall pay a penalty of $50 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) Failures Subject to Penalty.—For purposes of subsection (a), the failures described in this subsection are—

"(1) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

"(2) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

"(c) Penalty in Case of Intentional Disregard.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

"(2) in the case of any penalty determined under paragraph (1)—

"(A) the $100,000 limitation under subsection (a) shall not apply, and

"(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (1).

"SEC. 6723. FAILURE TO COMPLY WITH OTHER INFORMATION REPORTING REQUIREMENTS.

"In the case of a failure by any person to comply with a specified information reporting requirement on or before the time prescribed therefor, such person shall pay a penalty of $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) REASONABLE CAUSE WAIVER.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) PAYMENT OF PENALTY.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(c) SPECIAL RULE FOR FAILURE TO MEET MAGNETIC MEDIA REQUIREMENTS.—No penalty shall be imposed under section 6721 solely by reason of any failure to comply with the requirements of the regulations prescribed under section 6011(e)(2), except to the extent that such a failure occurs with respect to more than 250 information returns.

"(d) DEFINITIONS.—For purposes of this part—

"(1) INFORMATION RETURN.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 6041(a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

"(vi) section 6050N(a) (relating to payments of royalties), or

"(vii) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 6041A(a) or (b) (relating to returns of direct sellers),

"(ii) section 6045(a) or (d) (relating to returns of brokers),

"(iii) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(iv) section 6050I(a) (relating to cash received in trade or business),

"(v) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vi) section 6050K(a) (relating to exchanges of certain partnership interests),

"(vii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(viii) section 6052(a) (relating to reporting payment of wages in the form of group-life insurance),

"(ix) section 6053(c)(1) (relating to reporting with respect to certain tips),

"(x) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions), or

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (e), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be filed with the Secretary with respect to any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

"(2) PAYEE STATEMENT.—The term 'payee statement' means any statement required to be furnished under—

"(A) section 6031(b) or (c), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

"(B) section 6039(a) (relating to information required in connection with certain options),

"(C) section 6041(d) (relating to information at source),

"(D) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(E) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(F) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(G) section 6045(b) or (d) (relating to returns of brokers),

"(H) section 6049(c) (relating to returns regarding payments of interest),

"(I) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(J) section 6050H(d) relating to returns relating to mortgage interest received in trade or business from individuals),

"(K) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(L) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(M) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(N) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(O) section 6050N(b) (relating to returns regarding payments of royalties),

"(P) section 6051 (relating to receipts for employees),

"(Q) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance),

"(R) section 6053(b) or (c) (relating to reports of tips), or

"(S) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels).

Such term also includes any form, statement, or schedule required to be furnished to the recipient of any amount from which tax was required to be deducted and withheld under chapter 3 (or from which tax would be required to be so deducted and withheld but for an exemption under this title or any treaty obligation of the United States).

"(3) SPECIFIED INFORMATION REPORTING REQUIREMENT.—The term 'specified information reporting requirement' means—

"(A) the notice required by section 6050K(c)(1) (relating to requirement that transferor notify partnership of exchange), "(B) any requirement contained in the regulations prescribed under section 6109 that a person—

"(i) include his TIN on any return, statement, or other document (other than an information return or payee statement),

"(ii) furnish his TIN to another person, or

"(iii) include on any return, statement, or other document (other than an information return or payee statement) made with respect to another person the TIN of such person,

"(C) any requirement contained in the regulations prescribed under section 215 that a person—

"(i) furnish his TIN to another person, or

"(ii) include on his return the TIN of another person, and

"(D) the requirement of section 6109(e) that a person include the TIN of any dependent on his return.

"(4) REQUIRED FILING DATE.—The term 'required filing date' means the date prescribed for filing an information return with the Secretary (determined with regard to any extension of time for filing)."

(b) TECHNICAL AMENDMENTS.—

(1) Sections 6017A, 6676, and 6687 are hereby repealed.

(2) Subsection (b) of section 7205 is amended to read as follows:

"(b) BACKUP WITHHOLDING ON INTEREST AND DIVIDENDS.—If any individual willfully makes a false certification under paragraph (1) or (2)(C) of section 3406(d), then such individual shall, in addition to any other penalty provided by law, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both."

Fraud.
Law enforcement and crime.

(3) The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by striking the item relating to section 6017A.

(4) The table of sections for part I of subchapter B of chapter 68 is amended by striking the items relating to sections 6676 and 6687.

(5) The table of parts for subchapter B of chapter 68 is amended by striking the item relating to part II and inserting the following:

"Part II. Failure to comply with certain information reporting requirements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.

26 USC 6721 note.

SEC. 7712. INFORMATION REQUIRED WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

(a) CLARIFICATION OF REPORTING REQUIREMENTS UNDER SECTION 6038.—

(1) Subsection (a) of section 6038 (relating to information with respect to certain foreign corporations) is amended by adding at the end thereof the following new paragraph:

"(4) INFORMATION REQUIRED FROM CERTAIN SHAREHOLDERS IN CERTAIN CASES.—If any foreign corporation is treated as a controlled foreign corporation for any purpose under subpart F of part III of subchapter N of chapter 1, the Secretary may require any United States person treated as a United States shareholder of such corporation for any purpose under subpart F to furnish the information required under paragraph (1)."

(2) Paragraph (1) of section 6038(a) is amended by inserting before the period at the end of the second sentence the following: "or which the Secretary determines to be appropriate to carry out the provisions of this title."

26 USC 6038 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to returns and statements the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 7713. UNIFORM REQUIREMENTS FOR RETURNS ON MAGNETIC MEDIA.

(a) GENERAL RULE.—Subsection (e) of section 6011 (relating to regulations requiring returns on magnetic tape, etc.) is amended to read as follows:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC MEDIA, ETC.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

"(2) REQUIREMENTS OF REGULATIONS.—In prescribing regulations under paragraph (1), the Secretary—

"(A) shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and

"(B) shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations."

26 USC 6011 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

SEC. 7714. STUDY OF PROCEDURES TO PREVENT MISMATCHING.

(a) GENERAL RULE.—The Comptroller General (in consultation with the Secretary of the Treasury or his delegate) shall conduct a study on procedures to resolve, with the least disclosure of return information possible, discrepancies between taxpayer-identity information shown on information returns and such information in the records of the Internal Revenue Service.

(b) REPORT.—Not later than June 1, 1990, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 7715. STUDY OF SERVICE BUREAUS.

(a) GENERAL RULE.—The Comptroller General (in consultation with the Secretary of the Treasury or his delegate) shall conduct a study of whether persons engaged in the business of transmitting information returns or other documents to the Internal Revenue Service on behalf of other persons should be subject to registration or other regulation.

(b) Report.—Not later than July 1, 1990, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

PART II—REVISION OF ACCURACY-RELATED PENALTIES

SEC. 7721. REVISION OF ACCURACY-RELATED PENALTIES.

(a) General Rule.—Subchapter A of chapter 68 (relating to additions to the tax and additional amounts) is amended by striking section 6662 and inserting the following:

"PART II—ACCURACY-RELATED AND FRAUD PENALTIES

"Sec. 6662. Imposition of accuracy-related penalty.
"Sec. 6663. Imposition of fraud penalty.
"Sec. 6664. Definitions and special rules.

"SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY.

"(a) Imposition of Penalty.—If this section applies to any portion of an underpayment of tax required to be shown on a return, there shall be added to the tax an amount equal to 20 percent of the portion of the underpayment to which this section applies.

"(b) Portion of Underpayment to Which Section Applies.—This section shall apply to the portion of any underpayment which is attributable to 1 or more of the following:

"(1) Negligence or disregard of rules or regulations.

"(2) Any substantial understatement of income tax.

"(3) Any substantial valuation overstatement under chapter 1.

"(4) Any substantial overstatement of pension liabilities.

"(5) Any substantial estate or gift tax valuation understatement.

This section shall not apply to any portion of an underpayment on which a penalty is imposed under section 6663.

"(c) Negligence.—For purposes of this section, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"(d) Substantial Understatement of Income Tax.—

"(1) Substantial understatement.—

"(A) In general.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) $5,000.

"(B) Special rule for corporations.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting "$10,000" for "$5,000".

"(2) Understatement.—

"(A) In general.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return, reduced by any rebate (within the meaning of section 6211(b)(2)).

"(B) Reduction for understatement due to position of taxpayer or disclosed item.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) Special rules in cases involving tax shelters.—

"(i) In general.—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(ii) shall not apply, and

"(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(ii) Tax shelter.—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement,

if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"(D) Secretarial list.—The Secretary shall prescribe (and revise not less frequently than annually) a list of positions—

"(i) for which the Secretary believes there is not substantial authority, and

"(ii) which affect a significant number of taxpayers.

Such list (and any revision thereof) shall be published in the Federal Register.

Federal Register, publication.

"(e) Substantial Valuation Overstatement Under Chapter 1.—

"(1) In general.—For purposes of this section, there is a substantial valuation overstatement under chapter 1 if the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be).

"(2) Limitation.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation overstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(f) Substantial Overstatement of Pension Liabilities.—

"(1) In general.—For purposes of this section, there is a substantial overstatement of pension liabilities if the actuarial determination of the liabilities taken into account for purposes of computing the deduction under paragraph (1) or (2) of section 404(a) is 200 percent or more of the amount determined to be the correct amount of such liabilities.

"(2) Limitation.—No penalty shall be imposed by reason of subsection (b)(4) unless the portion of the underpayment for the taxable year attributable to substantial overstatements of pension liabilities exceeds $1,000.

"(g) Substantial Estate or Gift Tax Valuation Understatement.—

"(1) In general.—For purposes of this section, there is a substantial estate or gift tax valuation understatement if the value of any property claimed on any return of tax imposed by subtitle B is 50 percent or less of the amount determined to be the correct amount of such valuation.

"(2) Limitation.—No penalty shall be imposed by reason of subsection (b)(5) unless the portion of the underpayment attributable to substantial estate or gift tax valuation understatements for the taxable period (or, in the case of the tax imposed by chapter 11, with respect to the estate of the decedent) exceeds $5,000.

"(h) Increase in Penalty in Case of Gross Valuation Misstatements.—

"(1) In general.—To the extent that a portion of the underpayment to which this section applies is attributable to one or more gross valuation misstatements, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.

"(2) Gross valuation misstatements.—The term 'gross valuation misstatements' means—

"(A) any substantial valuation overstatement under chapter 1 as determined under subsection (e) by substituting '400 percent' for '200 percent',

"(B) any substantial overstatement of pension liabilities as determined under subsection (f) by substituting '400 percent' for '200 percent', and

"(C) any substantial estate or gift tax valuation understatement as determined under subsection (g) by substituting '25 percent' for '50 percent'.

"SEC. 6663. IMPOSITION OF FRAUD PENALTY.

"(a) Imposition of Penalty.—If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud.

"(b) Determination of Portion Attributable to Fraud.—If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes (by a preponderance of the evidence) is not attributable to fraud.

"(c) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this section shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse.

"SEC. 6664. DEFINITIONS AND SPECIAL RULES.

"(a) UNDERPAYMENT.—For purposes of this part, the term 'underpayment' means the amount by which any tax imposed by this title exceeds the excess of—

"(1) the sum of—

"(A) the amount shown as the tax by the taxpayer on his return, plus

"(B) amounts not so shown previously assessed (or collected without assessment), over

"(2) the amount of rebates made.

For purposes of paragraph (2), the term 'rebate' means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed was less than the excess of the amount specified in paragraph (1) over the rebates previously made.

"(b) PENALTIES APPLICABLE ONLY WHERE RETURN FILED.—The penalties provided in this part shall apply only in cases where a return of tax is filed (other than a return prepared by the Secretary under the authority of section 6020(b)).

"(c) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—No penalty shall be imposed under this part with respect to any portion of an underpayment if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

Gifts and property.

"(2) SPECIAL RULE FOR CERTAIN VALUATION OVERSTATEMENTS.—In the case of any underpayment attributable to a substantial or gross valuation overstatement under chapter 1 with respect to charitable deduction property, paragraph (1) shall not apply unless—

"(A) the claimed value of the property was based on a qualified appraisal made by a qualified appraiser, and

"(B) in addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE DEDUCTION PROPERTY.—The term 'charitable deduction property' means any property contributed by the taxpayer in a contribution for which a deduction was claimed under section 170. For purposes of paragraph (2), such term shall not include any securities for which (as of the date of the contribution) market quotations are readily available on an established securities market.

"(B) QUALIFIED APPRAISER.—The term 'qualified appraiser' means any appraiser meeting the requirements of the regulations prescribed under section 170(a)(1).

"(C) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means any appraisal meeting the requirements of the regulations prescribed under section 170(a)(1).

"PART III—APPLICABLE RULES

"Sec. 6665. Applicable rules.

"SEC. 6665. APPLICABLE RULES.

"(a) ADDITIONS TREATED AS TAX.—Except as otherwise provided in this title—

"(1) the additions to the tax, additional amounts, and penalties provided by this chapter shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes; and

"(2) any reference in this title to 'tax' imposed by this title shall be deemed also to refer to the additions to the tax, additional amounts, and penalties provided by this chapter.

"(b) PROCEDURE FOR ASSESSING CERTAIN ADDITIONS TO TAX.—For purposes of subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes), subsection (a) shall not apply to any addition to tax under section 6651, 6654, or 6655; except that it shall apply—

"(1) in the case of an addition described in section 6651, to that portion of such addition which is attributable to a deficiency in tax described in section 6211; or

"(2) to an addition described in section 6654 or 6655, if no return is filed for the taxable year."

(b) REPEAL OF INCREASE IN INTEREST ON CERTAIN SUBSTANTIAL UNDERPAYMENTS.—Subsection (c) of section 6621 (relating to interest on substantial underpayments attributable to tax motivated transactions) is hereby repealed.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6653 is amended to read as follows:

"SEC. 6653. FAILURE TO PAY STAMP TAX.

"Any person (as defined in section 6671(b)) who—

"(1) willfully fails to pay any tax imposed by this title which is payable by stamp, coupons, tickets, books, or other devices or methods prescribed by this title or by regulations under the authority of this title, or

"(2) willfully attempts in any manner to evade or defeat any such tax or the payment thereof,

shall, in addition to other penalties provided by law, be liable for a penalty of 50 percent of the total amount of the underpayment of the tax."

(2) Sections 6659, 6659A, 6660, and 6661 are hereby repealed.

(3) Subsection (b) of section 5684 is amended—

(A) by striking "6662(a)" and inserting "6665(a)", and

(B) by striking "6662" in the subsection heading and inserting "6665".

(4) Subsection (a) of section 5761 is amended by striking "or 6653" and inserting "or 6653 or part II of subchapter A of chapter 68".

(5) Subsection (c) of section 5761 is amended—

(A) by striking "6662(a)" and inserting "6665(a)", and

(B) by striking "6662" in the subsection heading and inserting "6665".

(6) Subparagraph (A) of section 6013(b)(5) is amended—

(A) by striking "section 6653" and inserting "part II of subchapter A of chapter 68", and

(B) by striking "SECTION 6653" in the subparagraph heading and inserting "**PART II OF SUBCHAPTER A OF CHAPTER 68**".

(7) Subsection (d) of section 6222 is amended by striking "section 6653(a)" and inserting "part II of subchapter A of chapter 68".

(8) Paragraph (2) of section 6601(e) is amended by striking "section 6651(a)(1), 6653, 6659, 6660, or 6661" each place it appears and inserting "section 6651(a)(1) or 6653 or under part II of subchapter A of chapter 68".

(9) Subsection (a) of section 6672 is amended by striking "under section 6653" and inserting "under section 6653 or part II of subchapter A of chapter 68".

(10) Subparagraph (C) of section 461(i)(3) is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(ii)".

(11) Clause (i) of section 1274(b)(3)(B) is amended by striking "section 6661(b)(2)(C)(ii)" and inserting "section 6662(d)(2)(C)(ii)".

(12) Subparagraph (B) of section 7519(f)(4) is amended by striking "section 6653" and inserting "part II of subchapter A of chapter 68".

(13) Subchapter A of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.
"Part II. Accuracy-related and fraud penalties.
"Part III. Applicable rules.

"PART I—GENERAL PROVISIONS".

(14) The table of sections for part I of subchapter A of chapter 68 (as amended by paragraph (1)) is amended—

(A) by striking out the items relating to sections 6659, 6659A, 6660, and 6661, and

(B) by striking the item relating to section 6653 and inserting:

"Sec. 6653. Failure to pay stamp tax."

26 USC 461 note.

(d) Effective Date.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

PART III—PREPARER, PROMOTER, AND PROTESTER PENALTIES

SEC. 7731. PENALTY FOR INSTITUTING PROCEEDINGS BEFORE TAX COURT PRIMARILY FOR DELAY, ETC.

(a) General Rule.—Section 6673 (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended to read as follows:

"SEC. 6673. SANCTIONS AND COSTS AWARDED BY COURTS.

"(a) Tax Court Proceedings.—

"(1) Procedures instituted primarily for delay, etc.—Whenever it appears to the Tax Court that—

"(A) proceedings before it have been instituted or maintained by the taxpayer primarily for delay,

"(B) the taxpayer's position in such proceeding is frivolous or groundless, or

"(C) the taxpayer unreasonably failed to pursue available administrative remedies,

the Tax Court, in its decision, may require the taxpayer to pay to the United States a penalty not in excess of $25,000.

"(2) Counsel's liability for excessive costs.—Whenever it appears to the Tax Court that any attorney or other person admitted to practice before the Tax Court has multiplied the proceedings in any case unreasonably and vexatiously, the Tax Court may require—

"(A) that such attorney or other person pay personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct, or

"(B) if such attorney is appearing on behalf of the Commissioner of Internal Revenue, that the United States pay such excess costs, expenses, and attorneys' fees in the same manner as such an award by a district court.

"(b) Proceedings in Other Courts.—

"(1) Claims under section 7433.—Whenever it appears to the court that the taxpayer's position in the proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, the court may require the taxpayer to pay to the United States a penalty not in excess of $10,000.

"(2) Collection of sanctions and costs.—In any civil proceeding before any court (other than the Tax Court) which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, any monetary sanctions, penalties, or costs awarded by the court to the United States may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax.

"(3) Sanctions and costs awarded by a court of appeals.—In connection with any appeal from a proceeding in the Tax Court or a civil proceeding described in paragraph (2), an order of a United States Court of Appeals or the Supreme Court awarding monetary sanctions, penalties or court costs to the United States may be registered in a district court upon filing a certified copy of such order and shall be enforceable as other district court judgments. Any such sanctions, penalties, or costs may be assessed by the Secretary and, upon notice and demand, may be collected in the same manner as a tax."

(b) Clarification of Authority To Impose Penalties by Appellate Courts.—Paragraph (4) of section 7482(c) (relating to power to impose damages) is amended to read as follows:

"(4) To impose penalties.—The United States Court of Appeals and the Supreme Court shall have the power to require the taxpayer to pay to the United States a penalty in any case where the decision of the Tax Court is affirmed and it appears that the appeal was instituted or maintained primarily for delay or that the taxpayer's position in the appeal is frivolous or groundless."

(c) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6673 and inserting the following:

"Sec. 6673. Sanctions and costs awarded by courts."

26 USC 6673 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to positions taken after December 31, 1989, in proceedings which are pending on, or commenced after such date.

SEC. 7732. MODIFICATIONS TO PENALTIES ON RETURN PREPARERS FOR CERTAIN UNDERSTATEMENTS.

(a) GENERAL RULE.—Subsections (a) and (b) of section 6694 (relating to understatement of taxpayer's liability by income tax return preparer) are amended to read as follows:

"(a) UNDERSTATEMENTS DUE TO UNREALISTIC POSITIONS.—If—

"(1) any part of any understatement of liability with respect to any return or claim for refund is due to a position for which there was not a realistic possibility of being sustained on its merits,

"(2) any person who is an income tax return preparer with respect to such return or claim knew (or reasonably should have known) of such position, and

"(3) such position was not disclosed as provided in section 6662(d)(2)(B)(ii) or was frivolous,

such person shall pay a penalty of $250 with respect to such return or claim unless it is shown that there is reasonable cause for the understatement and such person acted in good faith.

"(b) WILLFUL OR RECKLESS CONDUCT.—If any part of any understatement of liability with respect to any return or claim for refund is due—

"(1) to a willful attempt in any manner to understate the liability for tax by a person who is an income tax return preparer with respect to such return or claim, or

"(2) to any reckless or intentional disregard of rules or regulations by any such person,

such person shall pay a penalty of $1,000 with respect to such return or claim. With respect to any return or claim, the amount of the penalty payable by any person by reason of this subsection shall be reduced by the amount of the penalty paid by such person by reason of subsection (a)."

26 USC 6694 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to documents prepared after December 31, 1989.

SEC. 7733. MODIFICATIONS TO OTHER ASSESSABLE PENALTIES WITH RESPECT TO RETURN PREPARERS.

(a) FAILURE TO FURNISH COPY TO TAXPAYER.—Subsection (a) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(b) FAILURE TO SIGN RETURN.—Subsection (b) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(c) FAILURE TO FURNISH IDENTIFYING NUMBER.—Subsection (c) of section 6695 is amended—

(1) by striking "$25" and inserting "$50", and

(2) by adding at the end thereof the following new sentence: "The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year shall not exceed $25,000."

(d) Failure To File Correct Information Returns.—Subsection (e) of section 6695 is amended to read as follows:

"(e) Failure To File Correct Information Returns.—Any person required to make a return under section 6060 who fails to comply with the requirements of such section shall pay a penalty of $50 for—

"(1) each failure to file a return as required under such section, and

"(2) each failure to set forth an item in the return as required under section,

unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The maximum penalty imposed under this subsection on any person with respect to any return period shall not exceed $25,000."

(e) Effective Date.—The amendments made by this section shall apply to documents prepared after December 31, 1989. 26 USC 6695 note.

SEC. 7734. MODIFICATIONS TO PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) General Rule.—Subsection (a) of section 6700 is amended—

(1) by inserting "(directly or indirectly)" after "participates" in paragraph (1)(B),

(2) by inserting "or causes another person to make or furnish" after "makes or furnishes" in paragraph (2), and

(3) by striking the material following paragraph (2) and inserting the following:

"shall pay, with respect to each activity described in paragraph (1), a penalty equal to the $1,000 or, if the person establishes that it is lesser, 100 percent of the gross income derived (or to be derived) by such person from such activity. For purposes of the preceding sentence, activities described in paragraph (1)(A) with respect to each entity or arrangement shall be treated as a separate activity and participation in each sale described in paragraph (1)(B) shall be so treated."

(b) Effective Date.—The amendment made by subsection (a) shall apply to activities after December 31, 1989. 26 USC 6700 note.

SEC. 7735. MODIFICATIONS TO PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

(a) General Rule.—Subsection (a) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended—

(1) by striking "in connection with any matter arising under the internal revenue laws" in paragraph (1),

(2) by striking "who knows" in paragraph (2) and inserting "who knows (or has reason to believe)", and

(3) by striking "will result" in paragraph (3) and inserting "would result".

(b) Coordination With Penalty Under Section 6700.—

(1) In general.—Subsection (f) of section 6701 is amended by adding at the end thereof the following new paragraph:

has been and should be to foster greater development of the private sector in member borrowing countries of such banks.

"(b) TECHNICAL ASSISTANCE TO TRANSFORM GOVERNMENT-OWNED ENTERPRISES INTO PRIVATELY OWNED ENTERPRISES.—In order to assist and strengthen the advancement of ongoing efforts to have the Inter-American Development Bank play a key role in building a viable private sector in member borrowing countries of such bank, and to further assist such bank in its determination to facilitate the transfer of government-owned enterprises in such countries to private ownership, the Secretary of the Treasury shall instruct the United States Executive Director of such bank to vigorously encourage the provision of technical assistance to such countries to transform enterprises owned, in whole or in part, by the governments of such countries into privately owned, self-sufficient enterprises. Such technical assistance may involve the valuation of the assets of such government-owned enterprises, the assessment of tender offers, and the creation or strengthening of market-based mechanisms to facilitate such a transfer of ownership.".

TITLE III—INTERNATIONAL MONETARY FUND ENHANCED STRUCTURAL ADJUSTMENT FACILITY

SEC. 301. CONTRIBUTION TO THE INTEREST SUBSIDY ACCOUNT OF THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND.

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

22 USC 286e-12.

"SEC. 54. CONTRIBUTION TO THE INTEREST SUBSIDY ACCOUNT OF THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND.

"(a) CONTRIBUTION AUTHORIZED.—

"(1) IN GENERAL.—Subject to paragraph (2), the United States Governor of the Fund may contribute $150,000,000 to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the Fund on behalf of the United States.

"(2) CONDITION.—The United States Governor of the Fund may not make a commitment to contribute any amount authorized to be contributed under paragraph (1) before an amount equal to such amount has been appropriated for such purpose.

"(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To pay for the contribution authorized by subsection (a), there are authorized to be appropriated not to exceed $150,000,000, without fiscal year limitation, for payment by the Secretary of the Treasury.".

SEC. 302. DISCUSSIONS TO ENHANCE THE CAPACITY OF THE INTERNATIONAL MONETARY FUND TO ALLEVIATE THE POTENTIALLY ADVERSE IMPACTS OF FUND PROGRAMS ON THE POOR AND THE ENVIRONMENT.

The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding after the section added by section 301 of this Act the following:

"SEC. 55. DISCUSSIONS TO ENHANCE THE CAPACITY OF THE FUND TO ALLEVIATE THE POTENTIALLY ADVERSE IMPACTS OF FUND PROGRAMS ON THE POOR AND THE ENVIRONMENT.

22 USC 286kk.

"The Secretary of the Treasury shall instruct the United States Executive Director of the Fund to seek policy changes by the Fund, through formal initiatives and through bilateral discussions, which will result in—

"(1) the initiation of a systematic review of policy prescriptions implemented by the Fund, for the purpose of determining whether the Fund's objectives were met and the social and environmental impacts of such policy prescriptions; and

"(2) the establishment of procedures which ensure the inclusion, in future economic reform programs approved by the Fund, of policy options which eliminate or reduce the potential adverse impact on the well-being of the poor or the environment resulting from such programs.".

TITLE IV—INTERNATIONAL DEBT PROVISIONS

Foreign Debt Reserving Act of 1989.
Loans.
12 USC 3901 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Foreign Debt Reserving Act of 1989".

SEC. 402. ADDITIONAL RESERVE REQUIREMENTS.

12 USC 3904a note.

(a) FINDINGS.—The Congress finds that—

(1) since the adoption of the International Lending Supervision Act of 1983, the credit quality of loans by United States banking institutions to highly indebted countries has deteriorated and the prospects for full repayment of such loans have diminished;

(2) in general during this period, the level of country exposure and transfer risk associated with loans by United States banking institutions to highly indebted countries has not been adequately reflected in the reserve levels established by many individual United States banking institutions or the reserve requirements imposed by Federal banking agencies pursuant to such Act;

(3) during the last 3 years and particularly in recent months, United States banking institutions have increased their reserves for possible losses from loans to highly indebted countries but such reserves remain, in some cases, significantly lower than reserves established by banking institutions in a number of foreign countries and may not be adequate to deal with potential risks; and

(4) in order to fulfill the purposes of such Act, the Federal banking agencies should take a more active role in reviewing reserve levels established by United States banking institutions for potential losses from loans to highly indebted countries and in requiring appropriate levels of both special and general reserves to reflect the increased risk of such loans.

(b) IN GENERAL.—The International Lending Supervision Act of 1983 (12 U.S.C. 3901 et seq.) is amended by inserting after section 905 the following new section:

12 USC 3904a.

"SEC. 905A. ADDITIONAL RESERVE REQUIREMENTS.

"(a) **In General.**—Each appropriate Federal banking agency shall review the exposure to risk of United States banking institutions arising from the medium- and long-term loans made by such institutions that are outstanding to any highly indebted country. Each agency shall provide direction to such institutions regarding additions to general reserves maintained by each banking institution for potential loan losses and special reserves required by such agency arising from such review.

"(b) **Determination of Institutional Exposure to Risk.**—In determining the exposure of an institution to risk for purposes of subsection (a), the appropriate Federal banking agency—

"(1) shall determine whether any country exposure that is, and has been for at least 2 years, rated in the category 'Other Transfer Risk Problems' or the category 'Substandard' by the Interagency Country Exposure Review Committee should be reevaluated;

"(2) may exempt, in full or in part, from reserve requirements established pursuant to subsection (a), any loan—

"(A) to a country that enters into a debt reduction, debt service reduction, or financing program with its bank creditors that is supported by the International Bank for Reconstruction and Development or the International Monetary Fund; or

"(B) secured, in whole or in part, by appropriate collateral for payment of interest or principal;

"(3) take into account any other factors which bear on such exposure and the particular circumstances of the institution; and

"(4) shall consider as indicators of risk, where appropriate, the average reserve levels maintained by or required of banking institutions in foreign countries and secondary market prices for such loans.

"(c) **Timing and Report.**—

"(1) **Determined by agency.**—Except as provided in paragraph (3), each appropriate Federal banking agency shall determine the timing of any addition to reserves required by subsection (a).

"(2) **Report.**—Each appropriate Federal banking agency shall include in each report required to be made under section 913(d) after 1989 a report on the actions taken pursuant to this section.

"(3) **Deadline.**—Each Federal agency required to undertake a review described in subsection (a) shall complete the review not later than December 31, 1990.

"(d) **Highly Indebted Country Defined.**—As used in this section, the term 'highly indebted country' means any country designated as a 'Highly Indebted Country' in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section.".

SEC. 403. REPORT ON MARK TO MARKET ACCOUNTING.

(a) **Report Required.**—Before the end of the 90-day period beginning on the date of the enactment of this section, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency shall jointly report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on

Banking, Housing, and Urban Affairs of the Senate on the merits of mark to market accounting treatment as an appropriate accounting treatment for the sovereign debt of highly indebted countries which is held by United States commercial banks.

(b) CONTENTS OF REPORT.—The report required under subsection (a) shall include—

(1) a discussion of the merits of mark to market accounting treatment as the appropriate accounting treatment for the sovereign debt of highly indebted countries which is held by United States commercial banks; and

(2) a description of the factors which the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency will consider in future assessments of the applicability of mark to market accounting to such debt.

SEC. 404. STUDY ON ELIMINATION OF CAPITAL FLIGHT.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to propose that the Fund conduct a study on multilateral means by which the banking industry might help reverse capital flight from countries which are engaged in debt restructuring, including—

(1) the feasibility of disclosing the names of account holders whose accounts may consist of flight capital, and the balances of such accounts;

(2) the usefulness of such disclosures in deterring the creation and maintenance of such accounts, and how such deterrence would operate or be defeated;

(3) the extent to which any such information is gathered and to whom such information is made available;

(4) the receptiveness of such countries to the disclosure of such information;

(5) the difficulties in, and the cost of, collecting such information and overcoming legal obstacles used to disguise the true ownership of such deposits, including the feasibility of using the threat of confiscatory penalties to prevent the disguising of the ownership of deposits;

(6) the usefulness of using taxes as a means to encourage the repatriation of flight capital; and

(7) the applicability (if any) of efforts to facilitate the identification, tracing, seizure, and forfeiture of drug crime proceeds, and to prevent the use of the banking system and of financial institutions for the purpose of money laundering.

(b) FLIGHT CAPITAL DEFINED.—As used in subsection (a), the term "flight capital" means any asset—

(1)(A) which is deposited in a banking institution for safekeeping or investment purposes; or

(B) for which a financial institution serves as a conduit, an agent, or a fiduciary in a transaction; and

(2) the owner of which may be a legal resident of a country other than the country in which the institution is located.

(c) REPORT TO THE CONGRESS.—Not later than the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Chairman of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and

Urban Affairs of the Senate a report on the actions taken and studies completed as required by subsection (a).

SEC. 405. FACTORS TO BE TAKEN INTO ACCOUNT IN DEVELOPING UNITED STATES POLICY TOWARD DEBT REDUCTION FOR CERTAIN HIGHLY INDEBTED COUNTRIES; REPORT TO THE CONGRESS.

Agriculture and agricultural commodities.

(a) Factors To Be Taken Into Account.—In developing the policy of the United States Government with respect to debt reduction for each highly indebted country which has a substantial share of the export market for 1 or more agricultural commodities the export market for which the United States also has a substantial share, the Secretary of the Treasury shall consider among other factors the effects of such policy on:

(1) United States exports of such commodities.

(2) The world price of such commodities.

(3) Domestic agricultural production and land distribution patterns in such country.

(4) The volume of exports from such country of agricultural commodities the export market for which such country has a substantial share of.

(5) Basic nutrition levels in such country.

(b) Report to the Congress.—Before the end of the 12-month period beginning on the date of the enactment of this section, the Secretary of the Treasury shall submit a report to the Congress on the potential impact of such policy on such factors in the highly indebted countries.

(c) Highly Indebted Country Defined.—As used in this section, the term "highly indebted country" means any country designated as a "Highly Indebted Country" in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section.

SEC. 406. SENSE OF THE CONGRESS THAT AGREEMENTS TO REDUCE DEBT BURDEN SHOULD BE ACCOMPANIED BY TRADE LIBERALIZATION.

(a) Findings.—The Congress finds that—

(1) Third World debtor nations have often been forced to raise trade barriers in order to accumulate foreign exchange surpluses to repay debt obligations;

(2) trade flows between such nations and the United States have lessened due to the debt crisis;

(3) the reduction of trade barriers would benefit the world economy and promote economic growth; and

(4) the Brady plan encourages debt reduction agreements on behalf of domestic financial institutions.

(b) Sense of the Congress.—It is the sense of Congress that the Secretary of the Treasury should continue to encourage trade liberalization as an element of economic reform programs.

22 USC 2291 note.

SEC. 407. LINKAGE OF DEBT REDUCTION LOANS TO REDUCTION IN DRUG TRAFFICKING; REPORT TO CONGRESS.

(a) Findings.—The Congress finds that—

(1) the Brady Initiative is a positive step, recognizing as it does the need for reducing the debt and debt service burdens of the indebted developing countries;

(2) the multilateral development banks should, as part of this debt reduction process, encourage such countries to further reform their economies by reducing their dependence on production and trafficking of illicit narcotics; and

(3) reduction of debt should relieve some of the financial burden on these countries, and thereby enable them to rely on legal income-generating activities.

(b) INSTRUCTION OF UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank that, in voting with respect to loans from the multilateral development bank to reduce the debt and debt burden of borrowing countries which are major producers, processors, traffickers, or exporters of illegal drugs to the United States, the Executive Director shall give preference to those countries which show marked improvement in reducing the volume of cultivation, processing, trafficking, and export to the United States of illegal drugs. In making a determination under the preceding sentence with respect to a country's improvement, the Secretary of the Treasury shall consult with the heads of the relevant agencies.

(c) REPORT TO CONGRESS.—The Secretary of the Treasury shall include, in the detailed accounting required by section 2018(c) of the International Narcotics Control Act of 1986 (22 U.S.C. 2191 note), relating to multilateral development bank assistance for drug eradication and crop substitution programs, an additional discussion of the steps taken and the progress made in implementing the goals set forth in subsection (b) of this section, and further steps needed to secure the achievement of these goals.

(d) DEFINITIONS.—As used in this section—

(1) the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund; and

(2) the term "illegal drugs" means "narcotic and psychotropic drugs and other controlled substances", as defined in section 481(i)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(3)).

TITLE V—ALLEVIATION OF POVERTY; ENVIRONMENTAL PROVISIONS; DEBT-FOR-DEVELOPMENT SWAPS; CONSOLIDATION OF REPORTING REQUIREMENTS

Subtitle A—Alleviation of Poverty

SEC. 501. INCREASING THE PRODUCTIVE ECONOMIC PARTICIPATION OF THE POOR.

22 USC 262p-5.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by redesignating section 1613 (as so redesignated by section 206 of this Act) as section 1614 and by inserting after section 1612 (as added by such section 206) the following:

22 USC 262p-4h.

"SEC. 1613. DISCUSSIONS TO INCREASE THE PRODUCTIVE ECONOMIC PARTICIPATION OF THE POOR; REPORTS.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director for each multilateral development bank to vigorously and continually advocate, in all replenishment negotiations and in discussion with other directors of such bank and with such bank, the following:

"(1) A major objective of such bank's operations and financing in each borrowing country, as a long term priority, should be to increase the productive role of the poor in the economy of such country.

"(2) Such bank should encourage and assist each borrowing country to develop sustainable national plans and strategies to eliminate the causes and alleviate the manifestations of poverty which keep the poor from leading economically and socially productive lives. Such plans and strategies should give attention to—

"(A) the enhancement of human resources, including programs for basic nutrition, primary health services, basic education, and safe water and basic sanitation;

"(B) access to income-generating activities, employment, and productive assets such as land and credit; and

"(C) consultation with public sector social agencies and local non-governmental organizations.

"(3) As an integral element of ongoing policy dialogue with each borrowing country to design structural adjustment plans and project lending programs, such bank should provide assistance consistent with achieving the objectives of the country's national plan for increasing the productive economic participation of the poor. Such dialogue should be conducted with government agencies working in social and economic sectors and with non-governmental groups in the borrowing country, especially those that have grassroots involvement with poor people.

"(4) In an annual review document, such bank should describe the extent to which the goal of increasing the productive economic participation of the poor is being advanced or retarded and the steps that are being taken to overcome obstacles to its fulfillment. Such review should be based on information contained in the bank's country implementation review documents and in the country strategy documents for each borrowing country. Such country strategy documents should describe the national strategy for productive economic participation of the poor and the steps the bank plans to take to assist the borrowing country during the period covered by the country strategy document.

"(5) Such bank should assist countries in assessing and monitoring progress in achieving poverty alleviation goals and targets through measurement by appropriate social indicators.

"(6) Such bank should adopt procedures and budgetary allocations for administrative purposes, and establish appropriate staffing levels, to ensure that adequate resources are available to implement the bank's program for enhancing the productive economic participation of the poor, in consultation with non-governmental groups.

"(7) Such bank should adopt, as a separate and major criterion in the allocation of concessional financing resources, a preferential allocation to each country which undertakes significant efforts to enhance the productive economic participation of the poor.

"(8) Such bank should require each country which receives structural adjustment assistance to have in place, after a reasonable phase-in period, a strategy to enhance the productive economic participation of the poor.

"(b) PROGRESS REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this section, the Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on the following:

"(1) The status of advocacy and progress being made to implement the objectives of subsection (a), describing the success to date, the obstacles encountered, and future expectations of progress.

"(2) A description of the progress to date in achieving the purposes of section 1611, including the institutional capacity and effort devoted to assisting in the development of statistical measures to assess the well-being of the poor.

"(3) A description and evaluation of the progress to date in developing effective mechanisms for involving non-governmental organizations, directly or indirectly, in the design, implementation, and monitoring of development projects, programs, and policies of the multilateral development banks.".

Subtitle B—International Debt Exchanges and the Environment

SEC. 511. SENSE OF THE CONGRESS RESOLUTION REGARDING ENVIRONMENTAL POLICY AND INTERNATIONAL DEBT EXCHANGES.

It is the sense of the Congress that—

(1) the Secretary of the Treasury should include support for sustainable development and conservation projects when providing a framework for negotiating or facilitating exchanges or reductions of commercial debt of foreign countries; and

(2) that in assisting or facilitating the reduction of debt of heavily indebted foreign countries, through multilateral institutions such as the International Monetary Fund or the International Bank for Reconstruction and Development, the Secretary of State and the Secretary of the Treasury should—

(A) support efforts to provide adequate resources for sustainable development and conservation projects as a component of the restructured commercial bank debt of that country; and

(B) in providing such support, seek to assure that—

(i) the host government, or a local nongovernmental organization acting with the support of the host government, has identified conservation or sustainable development projects it will target for assistance;

(ii) there will be in place an organization, either governmental or nongovernmental, that will have the commitment to assure the long-term viability of the project; and

(iii) the allocation of the resources provided for conservation and sustainable development projects through the debt restructuring agreement is done in a manner that will not overwhelm or distort economic conditions in the host country.

SEC. 512. MULTILATERAL DEVELOPMENT BANKS AND DEBT-FOR-NATURE EXCHANGES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by redesignating section 1614 (as so redesignated by section 501 of this Act) as section 1617, and by inserting after section 1613 (as added by such section 501) the following:

22 USC 262p-5.

Conservation.
22 USC 262p-4i.

"SEC. 1614. MULTILATERAL DEVELOPMENT BANKS AND DEBT-FOR-NATURE EXCHANGES.

"(a) DIRECTIONS TO THE UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall direct the United States Executive Directors of the multilateral development banks to—

"(1) negotiate for the creation in each respective multilateral development bank, except where the Secretary of the Treasury determines that the provisions of this subsection have previously been met, of a department that will—

"(A) be responsible for environmental protection and resource conservation, including support for restoration, protection, and sustainable use policies;

"(B) develop and monitor strict environmental guidelines and policies to govern lending activities; and

"(C) actively promote, coordinate and facilitate debt-for-nature exchanges and the restoration, protection, and sustainable use of tropical forests, renewable natural resources, endangered ecosystems and species in debtor countries;

"(2) support and encourage the approval of multilateral development bank loans which include provisions that foster and facilitate the implementation of a sound and effective environmental policy in the borrowing country;

"(3) encourage the banks to assist such countries in reducing and restructuring private debt through the use of a portion of a project or policy based environmental loan in ways which will enable such countries to buy back private debt at a rate of discount available for such debt, at auction in the secondary market or through negotiations with creditors holding such debt;

"(4) seek to ensure that staff of each bank facilitate debtor countries' collaboration with local and international nongovernmental or private organizations in implementing debt-for-nature exchanges; and

"(5) seek to ensure that each bank adopts policy guidelines which to the maximum extent possible provide for—

"(A) the inclusion of sustainable use policies in loan agreements negotiated with borrower members;

"(B) the adoption of economic programs to foster sound environmental policies; and

"(C) the provision of debtor countries' policy changes or significant increases in financial resources for use in at least 1 of the following—

"(i) restoration, protection, or sustainable use of the world's oceans and atmosphere;

"(ii) restoration, protection, or sustainable use of diverse animal and plant species;

"(iii) establishment, restoration, protection, and maintenance of parks and reserves;

"(iv) development and implementation of sound systems of natural resource management;

"(v) development and support of local conservation programs;

"(vi) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

"(vii) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

"(viii) design and implementation of sound programs of land and ecosystem management; and

"(ix) promotion of regenerative approaches in farming, forestry, and watershed management.

"(b) NEGOTIATION OF GUIDELINES FOR RESTORATION, PROTECTION, OR SUSTAINABLE USE POLICIES.—The United States Executive Directors of the multilateral development banks shall seek to negotiate with the other executive directors to provide guidelines for restoration, protection, or sustainable use policies. Pending the outcome of such negotiations, the United States Executive Directors shall consider restoration, protection, or sustainable use policies to be those which—

"(1) support development that maintains and restores the renewable natural resource base so that present and future needs of debtor countries' populations can be met, while not impairing critical ecosystems and not exacerbating global environmental problems;

"(2) are environmentally sustainable in that resources are conserved and managed in an effort to remove pressure on the natural resource base and to make judicious use of the land so as to sustain growth and the availability of all natural resources;

"(3) support development that does not exceed the limits imposed by local hydrological cycles, soil, climate, vegetation, and human cultural practices;

"(4) promote the maintenance and restoration of soils, vegetation, hydrological cycles, wildlife, critical ecosystems (tropical forests, wetlands, and coastal marine resources), biological diversity and other natural resources essential to economic growth and human well-being and shall, when using natural resources, be implemented to minimize the depletion of such natural resources; and

"(5) take steps, wherever feasible, to prevent pollution that threatens human health and important biotic systems and to achieve patterns of energy consumption that meet human needs and rely on renewable resources.

“(c) Inclusion of Certain Items in Guidelines.—The United States Executive Directors shall endeavor to include the provisions of paragraphs (1) through (5) of subsection (b) in the guidelines developed through the negotiations specified in this section.

22 USC 262p–4j. “SEC. 1615. PROMOTION OF LENDING FOR THE ENVIRONMENT.

“The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to initiate discussions with the other executive directors of such bank and the management of such bank and propose that, in order to reduce the future need for bank lending for reforestation and restoration of environmentally degraded areas, the bank establish a project and policy based environmental lending program (including a loan a portion of which could be used to reduce and restructure private debt), to be made available to interested countries with a demonstrated commitment to natural resource conservation, which would be based on—

“(1) the estimated long-term economic return which could be expected from the sustainable use and protection of tropical forests, including the value of tropical forests for indigenous people and for science;

“(2) the value derived from such services as—

“(A) watershed management;

“(B) soil erosion control;

“(C) the maintenance and improvement of—

“(i) fisheries;

“(ii) water supply regulation for industrial development;

“(iii) food;

“(iv) fuel;

“(v) fodder; and

“(vi) building materials for local communities;

“(D) the extraction of naturally occurring products from locally controlled protected areas; and

“(E) indigenous knowledge of the management and use of natural resources; and

“(3) the long-term benefits expected to be derived from maintaining biological diversity and climate stabilization.

22 USC 262p–4k. “SEC. 1616. PROMOTION OF INSTITUTION-BUILDING FOR NONGOVERNMENTAL ORGANIZATIONS CONCERNED WITH THE ENVIRONMENT.

“The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to vigorously promote the adoption of policies and procedures which seek to—

“(1) increase collaboration with, and, where necessary, strengthen, nongovernmental organizations in such countries which are concerned with environmental protection by providing appropriate assistance and support for programs and activities on environmental protection; and

“(2) encourage international collaboration for information exchange and project enhancement with nongovernmental organizations in developing countries which are concerned with environmental protection and government agencies and private voluntary organizations in developed countries which are concerned with environmental protection.”.

Subtitle C—Environmental Impact Assessments

SEC. 521. ASSESSMENT OF ENVIRONMENTAL IMPACT OF PROPOSED MULTILATERAL DEVELOPMENT BANK ACTIONS.

Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by adding at the end the following:

"SEC. 1308. ASSESSMENT OF ENVIRONMENTAL IMPACT OF PROPOSED MULTILATERAL DEVELOPMENT BANK ACTIONS.

22 USC 262m-7.

"(a) Assessment Required Before Favorable Vote on Action.—

"(1) In general.—Beginning 2 years after the date of the enactment of this section, the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank not to vote in favor of any action proposed to be taken by the respective bank which would have a significant effect on the human environment, unless for at least 120 days before the date of the vote—

"(A) an assessment analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the borrowing country or the institution, and been made available to the board of directors of the institution; and

"(B) except as provided in paragraph (2), such assessment or a comprehensive summary of such assessment has been made available to the multilateral development bank, affected groups, and local nongovernmental organizations.

"(2) Exceptions and reports.—

Classified information.

"(A) Exceptions.—The requirement of paragraph (1)(B) shall not apply where the Secretary finds compelling reasons to believe that disclosure in any case described in paragraph (1) would jeopardize the confidential relationship between the borrower country and the respective bank.

"(B) Reports by secretary.—The Secretary shall submit a quarterly report in writing to the Committees specified in subsection (f)(1) of the findings described in subparagraph (A).

"(b) Access to Assessments in All Member Countries.—The Secretary of the Treasury shall seek the adoption of policies and procedures, through discussions and negotiations with the other member countries of the multilateral development banks and with the management of such banks, which result in access by governmental agencies and interested members of the public of such member countries, to environmental assessments or documentary information containing comprehensive summaries of such assessments which discuss the environmental impact of prospective projects and programs being considered by such banks. Such assessments or summaries should be made available to such governmental agencies and interested members of the public at least 120 days before scheduled board action, and public participation in review of the relevant environmental information should be encouraged.

Public information.

"(c) Consideration of Assessment.—The Secretary of the Treasury shall—

"(1) ensure that an environmental impact assessment or comprehensive summary of such assessment described in subsection

(a) accompanies loan proposals through the agency review process; and

"(2) take into consideration recommendations from all other interested Federal agencies and interested members of the public.

"(d) **Development of Procedures for Systematic Environmental Assessment.**—The Secretary of the Treasury, in consultation with other Federal agencies, including the Environmental Protection Agency, the Department of State, and the Council on Environmental Quality, shall—

"(1) instruct the United States Executive Director of each multilateral development bank to initiate discussions with the other executive directors of the respective bank and to propose that the respective bank develop and make available to member governments of, and borrowers from, the respective bank, within 18 months after the date of the enactment of this section, a procedure for the systematic environmental assessment of development projects for which the respective bank provides financial assistance, taking into consideration the Guidelines and Principles for Environmental Impact Assessment promulgated by the United Nations Environmental Programme and other bilateral or multilateral assessment procedures; and

"(2) in determining the position of the United States on any action proposed to be taken by a multilateral development bank, develop and prescribe procedures for the consideration of, among other things—

"(A) the environmental impact assessment of the action described in subsection (a);

"(B) interagency and public review of such assessment; and

"(C) other environmental review and consultation of such action that is required by other law.

"(e) **Use of United States Personnel.**—The Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Administrator of the Agency for International Development, and the Administrator of the National Oceanic and Atmospheric Administration, shall—

"(1) make available to the multilateral development banks, without charge, appropriate United States Government personnel to assist in—

"(A) training bank staff in environmental impact assessment procedures;

"(B) providing advice on environmental issues;

"(C) preparing environmental studies for projects with potentially significant environmental impacts; and

"(D) preparing documents for public release, and developing procedures to provide for the inclusion of interested nongovernmental organizations in the environmental review process; and

"(2) encourage other member countries of such banks to provide similar assistance.

"(f) **Reports.**—

"(1) **In general.**—The Secretary of the Treasury shall submit to the Committees on Foreign Relations and Environment and

Public Works of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives—

"(A) not later than the end of the 1-year period beginning on the date of the enactment of this section, a progress report on the efficacy of efforts by the United States to encourage consistent and timely environmental impact assessment of actions proposed to be taken by the multilateral development banks and on the progress made by the multilateral development banks in developing and instituting environmental assessment policies and procedures; and

"(B) not later than January 1, 1993, a detailed report on the matters described in subparagraph (A).

Public information.

"(2) AVAILABILITY OF REPORTS.—The reports required by paragraph (1) shall be made available to the member governments of, and the borrowers from, the multilateral development banks, and to the public.".

Subtitle D—Debt-for-Development Swaps

12 USC 3901 note.

SEC. 531. ENCOURAGEMENT OF DEBT-FOR-DEVELOPMENT SWAPS THROUGH LOCAL CURRENCY REPAYMENT.

(a) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) debt-for-development swaps, where payment is made in local currency at the free market rate, serve a useful purpose by providing banking institutions with constructive opportunities for the reduction of the external debt of highly indebted developing countries in a process that involves the participation of private, nonprofit groups in providing a stimulus to the economic and social development of such developing countries;

(2) debt-for-development swaps provide highly indebted developing countries with a creative method of reducing external debt burdens, while promoting their economic growth and restructuring objectives;

(3) banking institutions should give careful consideration to engaging in such swaps as one means of strengthening overall loan portfolios through the reduction of high external debt burdens while expanding economic opportunities through private sector initiatives; and

(4) in order to avoid any bias against such swaps in the regulatory framework applicable to the financial reporting of banking institutions, where payment is made in local currency at the free market rate, appropriate recognition of the fair market exchange value of the currency so received should be made.

(b) NOTIFICATION RELATING TO LOCAL CURRENCY REPAYMENT THROUGH DEBT-FOR-DEVELOPMENT SWAPS.—Before the end of the 6-month period beginning on the date of the enactment of this section, each appropriate Federal banking agency shall adopt uniform guidelines that will effectuate the policy set forth in subsection (a) concerning the regulatory framework and accounting treatment of debt-for-development swaps involving repayment in local currency at the free market rate. For the purpose of such guidelines, the impact of such swaps on reported loan loss reserves shall be determined by valuing currency received in such swaps at fair market exchange value.

Loans.

(c) DEFINITIONS.—As used in this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given such term in section 903(1) of the International Lending Supervision Act of 1983.

(2) BANKING INSTITUTION.—The term "banking institution" has the meaning given such term in section 903(2) of the International Lending Supervision Act of 1983.

(3) DEBT-FOR-DEVELOPMENT SWAP.—The term "debt-for-development swap" has the meaning given such term in section 1608(b)(2) of the International Financial Institutions Act.

(4) HIGHLY INDEBTED COUNTRY.—The term "highly indebted country" means any country designated as a "Highly Indebted Country" in the annual World Debt Tables most recently published by the International Bank for Reconstruction and Development before the date of the enactment of this section.

Subtitle E—Consolidation of Certain Reporting Requirements

SEC. 541. CONSOLIDATION OF CERTAIN REPORTING REQUIREMENTS.

(a) IN GENERAL.—The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by adding at the end the following:

"TITLE XVII—CONSOLIDATED REPORTING REQUIREMENTS

22 USC 262r.

"SEC. 1701. ANNUAL REPORT BY CHAIRMAN OF THE NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES.

"(a) IN GENERAL.—The Chairman shall report annually to the Speaker of the House of Representatives, the President of the Senate, and to the President of the United States on the participation of the United States in the international financial institutions. The Chairman shall present such report to the Speaker of the House of Representatives and the President of the Senate not later than April 1 of each year following the close of the fiscal year covered by such report, except that the report for fiscal year 1989 shall be submitted not later than June 1, 1990.

"(b) CONTENTS OF REPORTS.—Each annual report required by subsection (a) shall contain—

"(1) such data and explanations concerning the effectiveness, operations, and policies of the international financial institutions, such recommendations concerning the international financial institutions, and such other data and material as the Chairman may deem appropriate;

"(2) the reports on each specific issue and topic which is required by any other provision of law to be included in the report of the National Advisory Council on International Monetary and Financial Policies required by section 4(b)(5) of the Bretton Woods Agreements Act, as in effect immediately before the date of the enactment of this section;

"(3) a description of each loan or other form of financial assistance approved by any international financial institution during the fiscal year covered by such report, and a discussion of how such loan or financial assistance will benefit the people, particularly the poor people, of the recipient country;

"(4) a review of the success achieved through the multilateral development banks in reducing or eliminating import restrictions and unfair export subsidies which—

"(A) have been determined to be consistent with international agreements; and

"(B) have a serious adverse impact on the United States;

"(5) a description of the actions taken and the progress made in carrying out subsections (a) and (b) of section 45 of the Bretton Woods Agreements Act;

"(6) the report required by section 2018(c) of the International Narcotics Act of 1986 (title II of Public Law 99-570), discussing the actions taken and progress made in encouraging the multilateral development banks to finance drug eradication and crop substitution programs;

"(7) a description of the progress made by the United States Executive Director of the International Monetary Fund with respect to the goals of section 55 of the Bretton Woods Agreements Act;

"(8) a description of the status of procedures in the multilateral development banks specifically designed to increase the productive role of the poor in the economies of the nations which are borrowers from such banks;

"(9) in consultation with the Secretary of State, a report on the progress toward achieving the goals of title VII (other than section 704), including the information required to be reported pursuant to section 701(c), and, for the fiscal year 1990, the report described in section 1613;

"(10) in consultation with the Secretary of State and the Administrator of the Agency for International Development, an assessment of the progress being made to implement the objectives of title XIII; and

"(11) a report on—

"(A) the progress made in transforming government-owned enterprises into privately owned enterprises as described in section 1612(b);

"(B) the performance of the privately owned enterprises resulting from such transformation; and

"(C) the contributions of development finance companies toward strengthening the private sector in member borrowing countries.

"(c) DEFINITIONS.—As used in this title, title XVIII, and title XIX:

"(1) CHAIRMAN.—The term 'Chairman' means the Chairman of the National Advisory Council on International Monetary and Financial Policies.

"(2) INTERNATIONAL FINANCIAL INSTITUTIONS.—The term 'international financial institutions' means the International Monetary Fund, International Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation.

"(3) MULTILATERAL DEVELOPMENT INSTITUTIONS.—The term 'multilateral development institutions' means the international financial institutions other than the International Monetary Fund.

"(4) MULTILATERAL DEVELOPMENT BANKS.—The term 'multilateral development banks' means the multilateral development institutions other than the Multilateral Investment Guarantee Agency.

"(d) TESTIMONY REQUIRED.—Upon request of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Chairman shall testify before the Committee to support and explain each annual report required by subsection (a). If the President has delegated to a person or persons other than the Chairman the authority to manage United States participation in the international financial institutions which was vested in the President by section 1(b) of the Reorganization Plan No. 4 of 1965, such person or persons shall, upon request of the Committee, accompany the Chairman and testify before the Committee with regard to such report. The Chairman and such other person or persons shall assess, in their testimony, the effectiveness of the international financial institutions, the major issues affecting United States participation, the major developments in the past year, the prospects for the coming year, United States policy goals with respect to the international financial institutions, and any specific issues addressed to them by any member of the Committee.

Loans.
22 USC 262r-1.

"SEC. 1702. TRANSMISSION TO THE CONGRESS OF OPERATING SUMMARIES OF THE MULTILATERAL DEVELOPMENT BANKS.

"The Secretary of the Treasury shall transmit to the Congress, on a monthly basis, current copies of the Monthly Operating Summary of the International Bank for Reconstruction and Development, showing the loan proposals or appraisal reports under consideration and the status of those loan proposals or appraisal reports within the Bank. The Secretary of the Treasury shall also transmit to the Congress, at such times as may be appropriate, comparable documents prepared by the other multilateral development banks which show the loans or credits under consideration in the other multilateral development banks.

Records.

22 USC 262r-2.

"SEC. 1703. COMBINED REPORT ON EFFECT OF PENDING MULTILATERAL DEVELOPMENT BANK LOANS ON ENVIRONMENT, NATURAL RESOURCES, PUBLIC HEALTH, AND INDIGENOUS PEOPLES.

"Not later than April 1 and October 1 of each year, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall submit to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, as a combined report, the reports required by section 1303(c) of this Act and by section 537(h)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 1(e) of Public Law 100-202).

"TITLE XVIII—EXPORT ENHANCEMENT

22 USC 262s-1.

"SEC. 1802. PROCUREMENT OPPORTUNITIES FOR UNITED STATES FIRMS.

"The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development institutions to take all possible steps to ensure that information relating to potential procurement opportunities for United States firms is expeditiously communicated to the Secretary of the Treasury, the Secretary of State, and the Secretary of Commerce, and is disseminated as widely as possible to large and small businesses.

"TITLE XIX—PERSONNEL PRACTICES

"SEC. 1901. PERSONNEL PRACTICES.

22 USC 262t.

"(a) Statement of Policy.—It shall be the policy of the United States that no initiatives, discussions, or recommendations concerning the placement or removal of any personnel employed by the international financial institutions shall be based on the political philosophy or activity of the individual under consideration.

"(b) Consultation.—The Secretary of the Treasury shall consult with the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate before any discussion or recommendations by any official of the United States Government concerning the placement or removal of any principal officer of any international financial institutions.".

(b) Transfer of Provisions Relating to Multilateral Development Bank Procurement.—(1) Section 3202 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 262a) is hereby transferred to the International Financial Institutions Act, inserted after the heading of title XVIII (as added by the amendment made by subsection (a) of this section), and redesignated as section 1801.

22 USC 262q.

22 USC 262s.

(2) Section 2302 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4722) is hereby transferred to the International Financial Institutions Act, inserted after section 1802 (as added by the amendment made by subsection (a) of this section), redesignated as section 1803, and amended by striking subsection (c).

22 USC 262s-2.

(c) Conforming Amendment.—Section 701(c) of the International Financial Institutions Act (22 U.S.C. 262d(c)) is amended to read as follows:

Reports.
Loans.

"(c)(1) Not later than 30 days after the end of each calendar quarter, the Secretary of the Treasury shall report quarterly on all loans considered by the Boards of Executive Directors of the institutions listed in subsection (a) to the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, or the designees of such Chairman and ranking minority member, and the Chairman and ranking minority member of the Committee on Foreign Relations of the Senate.

Human rights.

"(2) Each report required by paragraph (1) shall—

"(A) include a list of all loans considered by the Board of Executive Directors of the institutions listed in subsection (a) and shall specify with respect to each such loan—

"(i) the institution involved;

"(ii) the date of final action;

"(iii) the borrower;

"(iv) the amount;

"(v) the project or program;

"(vi) the vote of the United States Government;

"(vii) the reason for United States Government opposition, if any;

"(viii) the final disposition of the loan; and

"(ix) if the United States Government opposed the loan, whether the loan meets basic human needs;

"(B) indicate whether the United States has opposed any loan, financial assistance, or technical assistance to a country on human rights grounds;

"(C) indicate whether the United States has voted in favor of a loan, financial assistance, or technical assistance to a country with respect to which the United States had, in the preceding 2 years, opposed a loan, financial assistance, or technical assistance on human rights grounds; and

"(D) in cases where the United States changed its voting position from opposition to support or from support to opposition, on human rights grounds—

"(i) indicate the policy considerations that were taken into account in the development of the United States voting position;

"(ii) describe human rights conditions in the country involved;

"(iii) indicate how the United States voted on all other loans, financial assistance, and technical assistance to such country during the preceding 2 years; and

"(iv) contain information as to how the United States voting position relates to the overall United States Government policy on human rights in such country.".

(d) Repeals.—The following provisions of law are hereby repealed:

22 USC 286k-1.

(1) Paragraphs (5) and (6) of section 4(b), and sections 15(b), 30(b), 33(c), and 50, of the Bretton Woods Agreements Act (22 U.S.C. 286b(b) (5) and (6), 286e-9(b), 286s(c), and 286b-2).

(2) Section 4(b) of the Asian Development Bank Act (22 U.S.C. 285b(b)).

(3) Section 12 of the Inter-American Development Bank Act (22 U.S.C. 283i).

(4) Sections 701(g)(1), 1103, 1307, and 1602(d) of the International Financial Institutions Act (22 U.S.C. 262d(g)(1), 262g-2 note, 262m-6, and 262p-1(d)).

22 USC 286b-1.

(5) Chapter 3 of Public Law 91-599 (84 Stat. 1658).

(6) Sections 102 and 401 of Public Law 96-259 (22 U.S.C. 283 note and 262i).

(7) Sections 1005 and 1006 of the Supplemental Appropriations Act, 1984 (Public Law 98-181; 22 U.S.C. 276c-3).

22 USC 262*l* note.

(8) Section 537(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e) of Public Law 100-202; 22 U.S.C. 262l(c)).

(e) Other Conforming Amendments.—The following provisions of law are each amended by striking the last sentence:

(1) Section 4 of the International Finance Corporation Act (22 U.S.C. 282b).

(2) Section 4 of the Inter-American Development Bank Act (22 U.S.C. 283b).

(3) Section 204 of the Inter-American Investment Corporation Act (22 U.S.C. 283cc).

(4) Section 4 of the International Development Association Act (22 U.S.C. 284b).

(5) Section 408 of the Multilateral Investment Guarantee Agency Act (22 U.S.C. 290k-5).

(6) Section 204 of the African Development Fund Act (22 U.S.C. 290g-2).

(7) Section 1335 of the African Development Bank Act (22 U.S.C. 290i-3).

(8) Section 701(d) of the International Financial Institutions Act (22 U.S.C. 262d(d)).

(f) Clerical Amendments.—

(1) Section 4(b) of the Bretton Woods Agreements Act (22 U.S.C. 286b(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (5) and (6), respectively.

(2) Section 30 of the Bretton Woods Agreements Act (22 U.S.C. 286e-9) is amended by striking "(a)".

22 USC 285b.

(3) Section 4 of the Asian Development Bank Act (22 U.S.C. 285b-9) is amended by striking "(a)".

(4) Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by redesignating section 1308 (as added by section 521 of this Act) as section 1307.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. SENSE OF THE CONGRESS THAT THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AND THE INTERNATIONAL MONETARY FUND SHOULD EXPEDITIOUSLY ACT UPON LOAN REQUESTS FROM POLAND.

It is the sense of the Congress that, based on the liberalization of Poland's economic system and the opening of its economic system to market forces, the Secretary of the Treasury should instruct the United States Executive Directors of the International Bank for Reconstruction and Development and of the International Monetary Fund to urge upon their colleagues that their respective institutions move as expeditiously as possible in considering and acting upon loan requests from, and in disbursing approved loans to, Poland.

SEC. 602. SENSE OF THE CONGRESS SUPPORTING ASSISTANCE BY MULTILATERAL LENDING INSTITUTIONS TO ESTABLISH FINANCIAL INSTITUTIONS IN POLAND.

It is the sense of the Congress that the Secretary of the Treasury should instruct the United States Executive Directors of the multilateral development banks (as defined in section 1617 of the International Financial Institutions Act), of the International Finance Corporation, and of the Multilateral Investment Guarantee Agency to enter into discussions with the other executive directors of such institutions and, in such discussions, urge such institutions to consider and act promptly upon (and, in the case of the Multilateral Investment Guarantee Agency, after Poland becomes a member country of such institution) requests by individuals and private businesses in, and the Government of, Poland for financial and technical assistance in the establishment of financial institutions (including institutions such as credit unions, thrift institutions, and commercial banks) and businesses involved in the provision of credit and financial services.

SEC. 603. SENSE OF THE CONGRESS RELATING TO CONDITIONAL FINANCIAL ASSISTANCE BY MULTILATERAL LENDING INSTITUTIONS TO POLAND.

It is the sense of the Congress that the Secretary of the Treasury should instruct the United States Executive Directors of the multilateral development banks (as defined in section 1617 of the International Financial Institutions Act), of the International Monetary Fund, of the International Finance Corporation, and of the Multilateral Investment Guarantee Agency to enter into discussions with the other executive directors of such institutions and propose that such institutions not provide financial assistance or debt forgiveness to Poland until the government of Poland allows and facilitates privately owned entities established in foreign countries to invest in private commercial ventures in Poland.

SEC. 604. SENSE OF THE CONGRESS OPPOSING THE MAKING OF CERTAIN LOANS OR THE EXTENSION OF CERTAIN FINANCIAL AND TECHNICAL ASSISTANCE TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the People's Republic of China ordered the People's Liberation Army to brutally attack peaceful demonstrators who had assembled in Tiananmen Square;

(2) this attack violated the human rights of the demonstrators;

(3) several thousand innocent and defenseless protesters were killed in the initial assault;

Fang Lizhi.
Li Shuxian.

(4) these violations of human rights have evolved into a pattern of continuing repression and reprisals against citizens throughout China as evidenced by the beating of alleged dissidents, the order to the army to shoot "rioters"—the Chinese Government's term for the peaceful demonstrators—on sight, the mass arrest of students and workers, the public declarations by government-controlled media that physicists Fang Lizhi and Li Shuxian (who are being given refuge in the United States Embassy in Beijing) are "guilty" before being afforded due process, and the banning of all independent, unofficial prodemocracy organizations;

(5) the Government of the People's Republic of China is trying to suppress truthful accounts of the actions taken in Beijing and throughout the country, by, among other things, expelling foreign journalists, including the local bureau chief of the Voice of America, from the country;

(6) the People's Republic of China has received almost $8,000,000,000 in development loans from the International Bank for Reconstruction and Development, and increasing amounts of assistance from the Asian Development Bank;

(7) it is morally repugnant that, through such multilateral development banks, United States taxpayer dollars are used to support the present policies of the People's Republic of China;

(8) such development loans cannot be justified on economic grounds because economic development and market reforms cannot be achieved in the environment of repression that now clearly exists there; and

(9) the People's Republic of China is engaging in "a pattern of gross violations of internationally recognized human rights . . .

such as flagrant denial to life, liberty, and the security of person".

(b) STATEMENT OF POLICY.—It is the sense of the Congress that the President should—

(1) instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the Asian Development Bank to use their voices and votes to oppose the making of any loan or the extension of any financial or technical assistance to the People's Republic of China, in accordance with section 701(f) of the International Financial Institutions Act; and

(2) consider the People's Republic of China to be a country described in section 701(a)(1) of such Act until the President determines that the repression and reprisals against persons in connection with the prodemocracy demonstrations have ended.

TITLE VII—MISCELLANEOUS

Global Environmental Protection Assistance Act of 1989. Conservation. International agreements. 22 USC 2151 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Global Environmental Protection Assistance Act of 1989".

PART A—COMMERCIAL DEBT-FOR-NATURE EXCHANGES

SEC. 711. AMENDMENT TO THE FOREIGN ASSISTANCE ACT.

The Foreign Assistance Act of 1961 is amended by inserting after chapter 6 of part I the following new chapter:

"CHAPTER 7—DEBT-FOR-NATURE EXCHANGES

22 USC 2281.

"SEC. 461. DEFINITION.—For purpose of this chapter, the term 'debt-for-nature exchange' means the cancellation or redemption of the foreign debt of the government of a country in exchange for—

"(1) that government's making available local currencies (including through the issuance of bonds) which are used only for eligible projects involving the conservation or protection of the environment in that country (as described in section 463); or

"(2) that government's financial resource or policy commitment to take certain specified actions to ensure the restoration, protection, or sustainable use of natural resources within that country; or

"(3) a combination of assets and actions under both paragraphs (1) and (2).

Grants. 22 USC 2282.

"SEC. 462. ASSISTANCE FOR COMMERCIAL DEBT EXCHANGES.—(a) The Administrator of the Agency for International Development is authorized to furnish assistance, in the form of grants on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of a foreign government of an eligible country which will be canceled or redeemed under the terms of an agreement with that government as part of a debt-for-nature exchange.

"(b) Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in subsection (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

22 USC 2283.

"SEC. 463. ELIGIBLE PROJECTS.—(a) The Administrator of the Agency for International Development shall seek to ensure that debt-for-nature exchanges under this chapter support one or more of the following activities by either the host government, a local private conservation group, or a combination thereof:

"(1) restoration, protection, or sustainable use of the world's oceans and atmosphere;

"(2) restoration, protection, or sustainable use of diverse animal and plant species;

"(3) establishment, restoration, protection, and maintenance of parks and reserves;

"(4) development and implementation of sound systems of natural resource management;

"(5) development and support of local conservation programs;

"(6) training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;

"(7) efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;

"(8) design and implementation of sound programs of land and ecosystem management; and

"(9) promotion of regenerative approaches in farming, forestry, fishing, and watershed management.

"(b)(1) In cooperation with nongovernmental organizations, the Administrator of the Agency for International Development shall seek to identify those areas, which because of an imminent threat, are in particular need of immediate attention to prevent the loss of unique biological life or valuable ecosystem.

"(2) The Administrator of the Agency for International Development shall encourage as many eligible countries as possible to propose such exchanges with the purpose of demonstrating to a large number of governments the feasibility and benefits of sustainable development.

22 USC 2284.

"SEC. 464. ELIGIBLE COUNTRIES.—In order for a foreign country to be eligible to participate in a debt-for-nature exchange under this chapter, the Administrator of the Agency for International Development shall determine that—

"(1) the host country is fully committed to the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange;

"(2) a long-term plan has been prepared by the host country, or private conservation group, which adequately provides for the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange or that such a plan will be prepared in a timely manner; and

"(3) there is a government agency or a local nongovernmental organization, or combination thereof, in the host country with the capability, commitment, and record of environmental concern to oversee the long-term viability of the program or project that is to be undertaken through the debt-for-nature exchange.

Grants.
22 USC 2285.

"SEC. 465. TERMS AND CONDITIONS.—(a) The terms and conditions for making grants under this chapter shall be deemed to be fulfilled upon final approval by the Administrator of the Agency for International Development of the debt-for-nature exchange, a certification by the nongovernmental organization that the host government has accepted the terms of the exchange, and that an agreement has been reached to cancel the commercial debt in an agreed upon fashion.

"(b) Grants made under this section are intended to complement, and not substitute for, assistance otherwise available to a foreign country under this Act or any other provision of law.

"(c) The United States Government is prohibited from accepting title or interest in any land in a foreign country as a condition on the debt exchange. Real property.

"SEC. 466. PILOT PROGRAM FOR SUB-SAHARAN AFRICA.—(a) The Administrator of the Agency for International Development, in cooperation with nongovernmental conservation organizations, shall invite the government of each country in sub-Saharan Africa to submit a list of those areas of severely degraded national resources which threaten human survival and well-being and the opportunity for future economic growth or those areas of biological or ecological importance within the territory of that country. 22 USC 2286.

"(b) The Administrator of the Agency for International Development shall assess the list submitted by each country under subsection (a) and shall seek to reach agreement with the host country for the restoration and future sustainable use of those areas.

"(c)(1) The Administrator of the Agency for International Development is authorized to make grants, on such terms and conditions as may be necessary, to nongovernmental organizations for the purchase on the open market of discounted commercial debt of a foreign government of an eligible sub-Saharan country in exchange for commitments by that government to restore natural resources identified by the host country under subsection (a) or for commitments to develop plans for sustainable use of such resources. Grants.

"(2) Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in section (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.".

PART B—MULTILATERAL FOREIGN ASSISTANCE COORDINATION

SEC. 721. GENERAL POLICY.

It is the sense of the Congress that the Secretary of State should seek to develop an increased consideration of global warming, tropical deforestation, sustainable development, and biological diversity among the highest goals of bilateral foreign assistance programs of all countries.

SEC. 722. POLICY ON NEGOTIATIONS.

(a) IN GENERAL.—The Secretary of State, acting through the United States representative to the Development Assistance Committee of the Organization for Economic Coordination and Development (OECD), should initiate, at the earliest practicable date, negotiations among member countries on a coordinated approach to global warming, tropical deforestation, sustainable development, and biological diversity through bilateral assistance programs that would include—

(1) increased consideration of the impact of developmental projects on global warming, tropical deforestation, and biological diversity;

(2) reduction or elimination of funding for those projects that exacerbate those problems;

(3) coordinated research and development of projects that emphasize sustainable use or protection of tropical forests and support for local conservation efforts;

(4) expanded use of forgiveness of foreign assistance debt in exchange for policy changes or programs that address problems associated with global warming, tropical deforestation, sustainable development, and biological diversity;

(5) increased use of foreign assistance funds and technical assistance in support of local conservation, restoration, or sustainable development efforts and debt-for-nature exchanges;

Energy. (6) improved exchange of information on energy efficiency and solar and renewable energy sources, and a greater emphasis on the use of those sources of energy in developmental projects; and

(7) increased use of environmental experts in the field to assess development projects for their impact on global warming, tropical deforestation, and biological diversity.

(b) IMPLEMENTATION OF AGREEMENT.—Negotiations described in subsection (a) shall seek to ensure that the recommended changes are implemented as quickly as possible by member countries of the Development Assistance Committee.

TITLE VIII—EFFECTIVE DATE

22 USC 262d note.

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved December 19, 1989.

LEGISLATIVE HISTORY—H.R. 2494:

HOUSE REPORTS: No. 101-271 (Comm. on Banking, Finance and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 135 (1989):
  Oct. 18, considered and passed House.
  Nov. 21, considered and passed Senate, amended. House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):
  Dec. 19, Presidential statement.

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